

In The Matter Of:
*BEFORE THE ARKANSAS DEPARTMENT OF EDUCATION
STATE BOARD OF EDUCATION*

July 30, 2019

*Sharon K. Hill, CCR
(501) 680-0888*

BEFORE THE ARKANSAS DEPARTMENT OF EDUCATION
STATE BOARD OF EDUCATION

- SPECIAL MEETING -

JULY 30, 2019
9:00 A.M.

A P P E A R A N C E S

BOARD MEMBERS:

MS. DIANE ZOOK, Chairman
MS. CHARISSE DEAN, Vice Chairman
MR. BRETT WILLIAMSON
MS. OUIDA NEWTON
DR. FITZGERALD HILL
DR. SARAH MOORE
MS. KATHY McFETRIDGE
MR. CHAD PEKRON (via phone)

NON-VOTING BOARD MEMBERS:

MR. JOHNNY KEY, Secretary of Education
MS. STACEY McADOO, Arkansas Teacher of the Year

ADE LEGAL COUNSEL:

MS. LORI FRENO	ADE General Counsel
MS. JENNIFER DEDMAN	ADE Attorney Supervisor
MR. TAYLOR DUGAN	ADE Attorney

LOCATION:

Arkansas Department of Education
Division of Elementary & Secondary Education Auditorium
#4 Capitol Mall
Little Rock, AR 72201

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P R O C E E D I N G S

A-1: APPEALS UNDER THE PUBLIC SCHOOL CHOICE ACT OF 2015

CHAIRMAN ZOOK: We will ask Ms. Dedman if she will come to the podium and present, starting with C.

MS. DEDMAN: Okay. First up is, of course, the Brandon Family's public school choice appeal. But before we begin, I'll go ahead and I'll go over our summary again to refresh your memory, if you don't mind.

Again, the Act enables a student to attend a district where they do not reside, and it's certain to -- it's subject to certain restrictions that are contained in Arkansas Code Annotated 6-18-1906. The student's parent or guardian has to submit an application for Public School Choice to the non-resident district by May 1st of the year in which they want to begin. By July 1st the superintendent of the non-resident district shall notify the parent or guardian as to whether the application is accepted or rejected. Each district will date- and time-stamp the application.

There are certain limitations. If the provisions of a School Choice -- of the School Choice law conflict with a provision of an enforceable desegregation order or the court's approved

1 desegregation plan, either, which explicitly limits
2 the transfer of students between districts, the
3 provision of the order or plan will govern. Any
4 district that claims a conflict does have to submit
5 proof. We don't have any of those today. The law
6 does set a 3% net maximum limit on School Choice
7 transfers each year from a school district. The
8 district can also set standards concerning the
9 acceptance or rejection of a School Choice
10 application and that can include the capacity of a
11 program, class, grade level or school building. A
12 district can claim a lack of capacity only if the
13 school district has reached at least 90% of the
14 maximum authorized student population in a program,
15 class, grade level or school building. The standards
16 cannot include academic achievement, athletic or
17 other extracurricular ability, English proficiency,
18 special education needs except as allowed under
19 capacity or previous disciplinary proceedings except
20 for expulsions.

21 First up we --

22 CHAIRMAN ZOOK: Before we start with the cases,
23 we'd like to be sure that since Mr. Pekron is on the
24 phone that he can hear us and we can hear him.

25 MS. DEDMAN: Yes, ma'am.

1 MR. PEKRON: I can hear you all just fine.

2 Thank you.

3 CHAIRMAN ZOOK: Can everyone hear him?

4 (CHORUS OF AFFIRMATIVE RESPONSES BY BOARD MEMBERS)

5 CHAIRMAN ZOOK: Okay. Thank you very much.

6 You may proceed.

7 c) BRANDON FAMILY

8 MS. DEDMAN: Okay. First we have the Brandon
9 Family. The Brandon Family resides in Gravette
10 School District and has put in an application to
11 transfer to nonresident district Bentonville.
12 Bentonville denied the School Choice application
13 citing a lack of capacity in Bentonville's first
14 grade.

15 We have here the family and we have
16 representatives from Bentonville and Gravette. The
17 witnesses will need to be sworn. Each side will have
18 15 minutes -- 5 minutes to open and 15 minutes to --
19 20 minutes, beg your pardon, to present their cases.
20 You may ask questions of either party and allow
21 either party additional time to present their cases.
22 I'll ask -- after you swear in the witnesses, I'll
23 ask Mr. Brandon to come to the stand.

24 CHAIRMAN ZOOK: Okay. Would those in the
25 Brandon case, the school people as well as the

1 parents or anyone else going to speak in that case,
2 please rise and raise your right hand. Okay. Do you
3 swear or affirm that the testimony you're about to
4 give shall be the truth, the whole truth and nothing
5 but the truth?

6 (ALL WITNESSES ANSWERED AFFIRMATIVELY)

7 CHAIRMAN ZOOK: Thank you.

8 MR. BRANDON: Good morning.

9 CHAIRMAN ZOOK: Good morning.

10 MR. BRANDON: Long story short, my family has
11 been part of the Bentonville School District for
12 about the past four years, going on four years.
13 We're going through -- we started a building project
14 a little over a year ago, and we are no longer in the
15 Bentonville School District right now as we went
16 through a transition process. Worst case scenario,
17 we'll -- we're currently in the Gravette School
18 District. The home will reside in the Decatur School
19 District, which it was supposed to be finished but
20 it'll be finished in another month or so. Today our
21 children -- Regan is 16, Aiden is 11, Christian is 7.
22 Today Regan was accepted through School Choice to
23 stay in Bentonville; Christian and Aiden were not
24 accepted because there wasn't room. To my
25 understanding, our children have not been un-

1 enrolled; we haven't enrolled them anywhere else. So
2 to my understanding they're still currently enrolled
3 in Bentonville; don't know, you know, how much that
4 affects the 90 percentile. But within our family,
5 with our schedules everything we do is in
6 Bentonville. Our office is in Bentonville -- we of
7 course work in Bentonville, go to church in
8 Bentonville, we shop in Bentonville. Regan is our
9 caretaker; so the way it works now she's able to pick
10 up Christian across the street at school, go pick up
11 Aiden, you know, do whatever they need to do, and get
12 back home. So, all of our relationships are in
13 Bentonville, all of their friends.

14 We're kind of putting all our eggs in this
15 basket and I appreciate your consideration. All the
16 children need to go to the same school; so we would
17 have to pull Regan out, you know, in her junior year
18 if this doesn't come to fruition. And, again, worst
19 case scenario, we'd have to be in Gravette and then
20 transfer to Decatur in about a month. So thank you
21 for your consideration.

22 CHAIRMAN ZOOK: Okay. Thank you. Do you have
23 anything else right now?

24 MR. BRANDON: No, ma'am, not at this time.

25 CHAIRMAN ZOOK: All right. You may be seated.

1 MR. BRANDON: Thank you.

2 CHAIRMAN ZOOK: Okay. I guess I have a question
3 of Ms. Dedman. It was my understanding in the law
4 that if a person -- a sibling gets accepted then the
5 family counts as one?

6 MS. DEDMAN: Siblings are given priority under
7 the School Choice law. So if I'm the sending
8 district -- if I'm the resident district and I send a
9 sibling, then the other siblings do have priority to
10 go, and for purposes of counting that 3% cap they do
11 count as one. The problem in this particular case is
12 that Bentonville is saying "we don't have room, we
13 have reached our capacity" in a program, grade level,
14 class, something along those lines. So it's the
15 receiving district, the nonresident district that is
16 claiming a lack of capacity rather than the resident
17 district that is declining to send and not offering
18 priority for siblings.

19 CHAIRMAN ZOOK: Okay. So transfer in isn't
20 considered one, but transfer out is considered one?

21 MS. DEDMAN: That's a way to look at it.
22 Basically, the priority goes -- if I'm sending a
23 sibling, I'm sending all the siblings; they have
24 priority to go. But as far as receiving kids, they
25 are individual children in different grade levels.

1 You might say "I've got room in my junior class, but
2 I have reached the student/teacher ratio maximum in
3 my first grade class." That's what's happening here.

4 CHAIRMAN ZOOK: Okay. Dr. Hill.

5 DR. HILL: Did I hear him say that his kids were
6 never un-enrolled though? So, because that's what
7 kind of triggered -- he said they never were pulled
8 out. So were they bumped out because he's no longer
9 in the district and -- because he said his children
10 were never dis-enrolled from Bentonville Public
11 Schools.

12 MS. DEDMAN: Yes, sir. My -- now you'll correct
13 me if I'm wrong, Mr. Brandon. My understanding is
14 that your family lives in Gravette?

15 MR. BRANDON: Correct.

16 MS. DEDMAN: That your children were enrolled in
17 Bentonville School District, but your family lives in
18 Gravette. And only one of your children was accepted
19 through Public School Choice to attend Bentonville
20 Schools; is that correct?

21 MR. BRANDON: That is correct.

22 MS. DEDMAN: Okay.

23 DR. HILL: All right.

24 MR. BRANDON: But we also -- we did not un-
25 enroll them, and they're not enrolled in Gravette,

1 they're not enrolled in Decatur; they're enrolled in
2 Bentonville.

3 MR. WILLIAMSON: But last year they all attended
4 Bentonville?

5 MR. BRANDON: Correct.

6 MR. WILLIAMSON: Okay.

7 DR. MOORE: Jennifer, I have a couple of
8 questions for you, if you don't mind, since we're
9 doing a couple of over-capacity today -- and sorry I
10 didn't already know this. But when we count over-
11 capacity is that based on a May 1st count or
12 predictions for next year? How does that work?

13 MS. DEDMAN: Capacity is -- it's not set as
14 though the 3% maximum you're thinking of is set at
15 October 15th. Capacity is an ongoing calculation of
16 do-I-have-room-in-this-grade or class or building;
17 maybe I don't have room on May 1st, and then I lose
18 five kindergartners and, suddenly, I have much more
19 room.

20 DR. MOORE: Right.

21 MS. DEDMAN: It's an ongoing consideration.

22 DR. MOORE: In that case, does the District ever
23 call a family -- I mean once school starts in August
24 -- you probably don't know until the first two weeks
25 of school what that looks like. Do families ever get

1 admitted after that point?

2 MS. DEDMAN: I couldn't say on a case-by-case
3 basis whether all districts do that. Under the new
4 School Choice law districts will have a continuing
5 obligation to let families know when they've reached
6 their net maximum, that they now have room. They'll
7 have a continuing explicit obligation to let families
8 know things like that.

9 DR. MOORE: Okay.

10 MS. DEDMAN: But I couldn't speak to whether
11 they have done that in the past.

12 DR. MOORE: Okay. And then for that capacity,
13 does that include if a school district has multiple
14 schools? Does that include every school in the
15 district or is that just the school that that parent
16 has chosen to apply for?

17 MS. DEDMAN: It should include every school in
18 the district. What you're asking for is a transfer
19 from one district to another district. It might not
20 be your favorite elementary school, but if there's
21 room in another first grade or second grade or
22 whatever grade you're trying to go into in another
23 elementary school, and then the district does have
24 room for them in that other school --

25 DR. MOORE: Okay, that's helpful. Thank you.

1 CHAIRMAN ZOOK: Mr. Williamson?

2 MR. WILLIAMSON: I think Dr. Hill and I are on
3 the same path here. All three of his kids are in the
4 figures used to calculate the 3% right now; isn't
5 that correct?

6 MS. DEDMAN: Yes. Bentonville's issue is not
7 the 3%. Bentonville's issue is -- it's a lack of
8 capacity; it's the room. So the Gravette School
9 District --

10 MR. WILLIAMSON: But even in calculating that,
11 since they all three attended Bentonville last year
12 -- and I'm assuming just like you are, Mr. Brandon,
13 that they're still on, you know, the rolls there. I
14 mean why would they --

15 MS. DEDMAN: Bentonville might speak to that.
16 Essentially, under the School Choice law it's 90%.
17 If you're a resident of a district and you live
18 there, you're there whether or not they're full.

19 MR. WILLIAMSON: Right.

20 MS. DEDMAN: Under School Choice there's a 90%
21 student-to-teacher ratio maximum set for capacity.

22 CHAIRMAN ZOOK: Does anyone else have a question
23 for Ms. Dedman before we hear from Bentonville?

24 Okay. Thank you.

25 MS. DEDMAN: Ms. Sharp is here for Bentonville.

1 CHAIRMAN ZOOK: Okay. Thank you.

2 Good morning.

3 MS. SHARP: Good morning. Thank you.

4 I do want to address some of your questions that
5 you have had. We became aware the Brandon's had
6 cited an address for their residency --

7 CHAIRMAN ZOOK: Excuse me, let me interrupt you.
8 Would you tell us who you are for the record?

9 MS. SHARP: Yes, ma'am. I'm so sorry.

10 CHAIRMAN ZOOK: It's hard to remember.

11 MS. SHARP: Yes, ma'am. Tanya Sharp. I'm
12 Executive Director of Student Services for
13 Bentonville Schools.

14 So the Brandon's were attending our school
15 district based on an address that they had provided,
16 and in March we became aware that that was not their
17 address. They had given an address for Bentonville
18 Schools, and the family that resided at that address,
19 it's my understanding, have always resided at that
20 address. And so at that time, according to state
21 law, we have to notify that family and the school
22 district of their residence, that we have students
23 attending in our district that are not our residents.
24 And so we did notify the Brandon's and we did notify
25 the Gravette School District. And Gravette, since it

1 was late in March when we discovered this, allowed
2 them to finish their school year in the Bentonville
3 School District, and so we allowed that for the
4 students as well. We asked the Brandon's to make
5 sure that they could provide proof of residency
6 before the end of the school year; so the students
7 are no longer enrolled in the Bentonville School
8 District and so they were not part of our
9 calculations when we calculated our 90%.

10 The Brandon's also -- they live in Gravette and
11 they also, my understanding, have provided a School
12 Choice application to the Gravette School District
13 from the Decatur School District, since they are
14 moving -- building a new home in the Decatur
15 district. And so they've provided two School Choice
16 applications. We were able to accept their older
17 child that is in the secondary high school program
18 because we are not at the 90% capacity at that level.
19 We were not able to accept their elementary child and
20 their middle school child due to the 90%. We
21 calculate our 90% based on grade level, and so we
22 look at the grade level kindergarten through 6th
23 grade because you have those student/teacher ratio
24 numbers. We look at the capacity of the building at
25 the junior high level.

1 Are there any questions that I can answer for
2 you?

3 CHAIRMAN ZOOK: Ms. Newton, do you have any
4 questions at this point?

5 MS. NEWTON: What is your actual capacity?

6 MS. SHARP: For which grade level?

7 MS. NEWTON: Both of the ones that were denied.

8 MS. SHARP: I believe their youngest child is
9 going into the 2nd grade. At the time we looked at
10 our capacity, around the June 15th mark -- that's
11 about the time we looked at that in order to get our
12 letters out by that July 1 -- but we were over 90%
13 capacity. We will go to our Board of Education on
14 Tuesday and ask for additional teachers. Even with
15 additional teachers in 2nd grade we will be at 94%
16 capacity.

17 The other student I believe is going into 6th
18 grade, if I'm not mistaken. At the middle school
19 level we were over 90% capacity at the time of
20 calculation. We are at 97% capacity in 5th grade and
21 95% in 6th grade, even going to our Board of
22 Education.

23 CHAIRMAN ZOOK: Did you use the 25 per teacher
24 or the 28 number per teacher on the upper level?

25 MS. SHARP: At the middle school level, 5th and

1 6th grade, it is 28 --

2 CHAIRMAN ZOOK: Okay.

3 MS. SHARP: -- and we use that calculation.

4 CHAIRMAN ZOOK: Okay, thank you.

5 Dr. Hill? Ms. Dean? Ms. McAdoo? Dr. Moore?

6 DR. MOORE: Yes, I will ask what I asked
7 Jennifer. Assuming -- I know your district is always
8 over capacity probably. But is there ever a point
9 where y'all do -- in August, your enrollment, if it
10 changes you would notify parents that those spots
11 would be available?

12 MS. SHARP: We have not, and the reason we have
13 not is because we are a district of growth.

14 DR. MOORE: Right.

15 MS. SHARP: We constantly have families moving
16 in and so we continue to grow. And so we -- at that
17 90% capacity, we are wanting to leave room for those
18 families that are moving in.

19 DR. MOORE: Okay, thank you.

20 MS. SHARP: Yes, ma'am.

21 CHAIRMAN ZOOK: Mr. Williamson?

22 MR. WILLIAMSON: I can't think of anything right
23 now.

24 CHAIRMAN ZOOK: Okay. Ms. McFetridge?

25 MS. MCFETRIDGE: No, I don't have anything.

1 CHAIRMAN ZOOK: I'd like to ask Mr. Brandon a
2 question. Thank you. She brought up a point that
3 gave me pause about the address that the children had
4 listed as their address. Is that where you used to
5 live or were you living or renting, or can you
6 address that please?

7 MR. BRANDON: Sure, I can address that. So to
8 our understanding criteria to be able to be in the
9 Bentonville School District was to have -- it's a
10 pretty rigorous process each year, the residency
11 verification. We lease a couple of properties in
12 Bentonville, one for our office and some land. So
13 the particular location in question was some land
14 that we lease with a barn that we utilize for
15 different purposes, and then our office which is
16 about four blocks away from Bentonville. So we --
17 going through this process earlier this year, when we
18 got the School Choice information and actually
19 communicated with the school, I was talking to them
20 and learned that apparently there are some houses
21 that are divided, depending on the line. And the
22 children actually have to sleep there, not just pay
23 taxes on the property and, you know, be contributing
24 to society there.

25 CHAIRMAN ZOOK: Right.

1 MR. BRANDON: So both are correct. Correct, we
2 did not reside there. But it was -- again, we passed
3 the residency verification through our lease
4 agreements that we have in place.

5 CHAIRMAN ZOOK: Okay, thank you.

6 MR. BRANDON: Certainly.

7 CHAIRMAN ZOOK: Ms. Newton.

8 MS. NEWTON: Just a question -- one quick
9 question because of the three different districts
10 involved. Once you get your house built, where was
11 it your intention to send your children to school?

12 MR. BRANDON: Our intention -- like I said, we
13 are putting all our eggs in the Bentonville basket.
14 And whenever we went through that process and got the
15 land -- poor planning. We assumed -- literally our
16 back fence is the Bentonville School District line,
17 so it was an assumption and we missed on the
18 assumption. But we're, you know, fully hoping to get
19 our children into and to be able to stay in
20 Bentonville.

21 CHAIRMAN ZOOK: Anyone else?

22 Okay, thank you.

23 MR. BRANDON: Thank you.

24 CHAIRMAN ZOOK: And there was one other person
25 that stood up to take the oath. Did they have

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anything --

Are you the nonresident district?

DR. PAGE: Yes, ma'am.

CHAIRMAN ZOOK: Gravette?

DR. PAGE: Yes, ma'am.

CHAIRMAN ZOOK: Okay, thank you. Do you have anything you want to add?

DR. PAGE: Not at this time.

CHAIRMAN ZOOK: Okay, thank you.

Do I have a motion?

[MOMENT OF SILENCE}

CHAIRMAN ZOOK: Or discussion?

[MOMENT OF SILENCE]

CHAIRMAN ZOOK: More questions? It's too early for a break.

MR. WILLIAMSON: I'm going to vote for the kids and move that we grant the waiver.

CHAIRMAN ZOOK: Okay. We have a motion to grant the waiver by Mr. Williamson.

Do I have a second?

MR. PEKRON: I second it.

CHAIRMAN ZOOK: Mr. Pekron seconded the motion. We'll have a roll-call.

SECRETARY KEY: Mr. Pekron.

MR. PEKRON: Aye.

1 SECRETARY KEY: Dr. Hill.
2 DR. HILL: Yes.
3 SECRETARY KEY: Mr. Williamson.
4 MR. WILLIAMSON: Yes.
5 SECRETARY KEY: Ms. McFetridge.
6 MS. McFETRIDGE: Yes.
7 SECRETARY KEY: Dr. Moore.
8 DR. MOORE: Yes.
9 SECRETARY KEY: Ms. Newton.
10 MS. NEWTON: Yes.
11 SECRETARY KEY: Ms. Dean.
12 MS. DEAN: Yes.
13 SECRETARY KEY: Seven in favor.
14 CHAIRMAN ZOOK: Motion passes.
15 Your eggs are in the basket.
16 MR. BRANDON: Thank you very much.
17 CHAIRMAN ZOOK: Thank you for your presentation.
18 You did a good job.
19 And I appreciate the fact that y'all were
20 looking above 90%, I do in fact. And give our best
21 to Dr. Jones.
22 MS. SHARP: I will. Thank you.
23 CHAIRMAN ZOOK: Thank you. Y'all may be excused
24 if you'd like to get back.
25 DR. HILL: Watch that property line next time.

1 d) PUCK FAMILY

2 CHAIRMAN ZOOK: Okay. Next case is the Puck
3 case, also of Bentonville. This is a transfer from
4 Pea Ridge.

5 MS. DEDMAN: Pea Ridge. We have the Puck family
6 from Pea Ridge. They are requesting a transfer to
7 Bentonville School District. Bentonville denied
8 based on lack of capacity in their 8th grade.

9 CHAIRMAN ZOOK: Okay.

10 MS. DEDMAN: The Puck family is here. All
11 witnesses will need to be sworn.

12 CHAIRMAN ZOOK: Okay. Will anyone who will be
13 giving testimony please stand and raise your right
14 hand? Do you swear or affirm that the testimony
15 you're about to give shall be the truth, the whole
16 truth and nothing but the truth?

17 (ALL WITNESSES ANSWERED AFFIRMATIVELY)

18 CHAIRMAN ZOOK: Okay, you may be seated.

19 And when you come if you'll tell us who you are?

20 MR. PUCK: Yes. Good morning. I'm Jimmy Puck.
21 I am Wyatt's dad. [clearing throat] Excuse me. We
22 have lived in the Bentonville District for 16 years.
23 My children have been in the District since they
24 enrolled in school, in kindergarten. The plan was
25 for them to finish school in the Bentonville

1 District. Unfortunately, my wife's parents are
2 elderly and they live -- their residence is in the
3 Pea Ridge District. We moved out to their place in
4 order to help them with the land. My father-in-law
5 -- just a little background on him, he was a Viet Nam
6 veteran, a Gulf War veteran. He does suffer from
7 some illnesses due to Agent Orange, and so his
8 physical capacity is not what it used to be. So with
9 this move, it's moved our kids into a different
10 district. Our oldest daughter Natalie was accepted
11 by Bentonville; she'll be in 11th grade. Wyatt,
12 which will be in 8th grade, was not accepted. They
13 do live in the same residence, so two different
14 districts will be a challenge. And that's all I got.

15 CHAIRMAN ZOOK: Does anyone have any questions?

16 Dr. Moore.

17 DR. MOORE: Yes. So were both your children
18 enrolled in Bentonville the previous school year?

19 MR. PUCK: Yes.

20 DR. MOORE: Okay. So this would be -- this
21 coming school year would be a change?

22 MR. PUCK: Correct.

23 DR. MOORE: Okay, thank you.

24 MR. PUCK: Uh-huh, thank you.

25 CHAIRMAN ZOOK: Seeing no other questions, we'll

1 ask the District to present. Thank you.

2 MR. PUCK: Thank you.

3 MS. SHARP: Hello again. Tanya Sharp,
4 Bentonville Schools, Executive Director of Student
5 Services. The Puck family has been in our District;
6 their change moved them into the Pea Ridge District.
7 We were able to accept their older daughter because
8 that's at the high school level and we've not hit
9 that 90% capacity at the high school level. The 8th
10 grade, however, at the time of calculation we were at
11 90% capacity. We're at 95% capacity now. And so
12 that's why we denied the application, because of our
13 Board's capacity resolution that they had set.

14 CHAIRMAN ZOOK: Thank you.

15 MS. SHARP: Yes, ma'am.

16 CHAIRMAN ZOOK: Ms. Newton.

17 MS. NEWTON: Since they were enrolled last year,
18 were they used to calculate the 95%?

19 MS. SHARP: No, ma'am. I believe at that time
20 we had their residence on file, and so they would've
21 been in the Pea Ridge School District.

22 MS. NEWTON: Okay.

23 CHAIRMAN ZOOK: Anyone else have a question?

24 Thank you.

25 Do I have a motion?

1 And before we do a motion, I want to be sure
2 that people -- that the audience understands we as a
3 board are not choosing between districts. All of
4 these districts offer good, solid educational
5 opportunity for the children they serve. This is
6 just -- circumstances sometimes alter cases, and
7 that's why we're hearing these particular appeals.

8 MS. DEAN: I move to approve the transfer.

9 CHAIRMAN ZOOK: Moved by Ms. Dean to approve the
10 transfer. Do I have a second?

11 MS. McFETRIDGE: Second.

12 CHAIRMAN ZOOK: Second by Ms. McFetridge.
13 Will you do a roll-call please?

14 SECRETARY KEY: Mr. Pekron.

15 MR. PEKRON: Yeah.

16 SECRETARY KEY: Dr. Hill.

17 DR. HILL: Yes.

18 SECRETARY KEY: Mr. Williamson.

19 MR. WILLIAMSON: Yes.

20 SECRETARY KEY: Ms. McFetridge.

21 MS. McFETRIDGE: Yes.

22 SECRETARY KEY: Dr. Moore.

23 DR. MOORE: Yes.

24 SECRETARY KEY: Ms. Newton.

25 MS. NEWTON: Yes.

1 SECRETARY KEY: Ms. Dean.

2 MS. DEAN: Yes.

3 SECRETARY KEY: Seven votes in favor.

4 CHAIRMAN ZOOK: Motion passes.

5 And I want to commend you for taking care of
6 your parents. I know that they appreciate that, and
7 I do as well.

8 MR. PUCK: Thank you very much.

9 CHAIRMAN ZOOK: Y'all may be excused.

10 e) HARRIS FAMILY

11 CHAIRMAN ZOOK: The next case is the Harris
12 case, from Guy-Perkins to Quitman.

13 MS. DEDMAN: Yes. The Harris Family resides in
14 Guy-Perkins; they're seeking a transfer to Quitman.
15 It was denied based on the Guy-Perkins School
16 District having met their 3% maximum limit on School
17 Choice transfers for the school year. We do have the
18 parent here.

19 Oh, I'm sorry; all parties will need to be
20 sworn.

21 CHAIRMAN ZOOK: That's okay. Between the two of
22 us we'll get this right.

23 Okay. Would you raise your right hand please?
24 Do you swear or affirm that the testimony you're
25 about to give shall be the truth, the whole truth and

1 nothing but the truth?

2 (ALL WITNESSES ANSWERED AFFIRMATIVELY)

3 CHAIRMAN ZOOK: You may be seated.

4 The parent. And if you will, identify yourself.

5 MS. HARRIS: I'm Emily Harris. I'm the parent
6 of Tagan [ps] and Aspen Harris. We currently live in
7 the Guy School District and I actually teach there,
8 and whenever we moved there five years ago we kind of
9 went wholeheartedly. And we have a 9-year old, a 6-
10 year old, and a 1-year old. And before our girls
11 were ever in sports we followed the ball team to
12 state tournaments, eight months pregnant; we followed
13 them all the way. And I feel like we really just
14 wanted a community to love us like what we could give
15 them. And Guy is a great community, but after four
16 years of education I'm just not sure that it's giving
17 my children what they need. The main factors that
18 kind of concern my husband and I with our girls are
19 academics, safety, sports, and the opportunities.

20 My oldest daughter is in 4th grade, so she does
21 a lot of the state testing. Her state testing is not
22 hitting where we need it to hit. And her classroom
23 assessments, they have just plateaued; they're not
24 going up like they should at all. I know as a
25 teacher where they need to be academically, and

1 they're not getting there quick enough. And I feel
2 like every year we've waited and we've said we'll
3 give it one more year; we'll give it one more year
4 with the administration changes and with all these
5 changes that Guy-Perkins is doing, and we're just --
6 we're not getting there for our children.

7 The safety -- I know that safety is obviously a
8 huge concern for my husband and I with our three
9 children. And I know that Quitman has a Resource
10 Officer; Guy-Perkins does not. They have one that's
11 a part-time. I never saw him last year. Also, with
12 the safe-rooms, I know that Quitman has installed
13 safe-rooms in every classroom, and that is very
14 important to us for our children, especially with the
15 tornados that we have in that area. And, you know, I
16 know also as a parent and a teacher that, as much as
17 we'd like to say it'll never happen, active killers
18 can happen any time, and I feel like Quitman is more
19 prepared for that than what we can give our children
20 at Guy.

21 My daughter was nominated for the USSSA all-
22 state for softball this year. And both of my girls
23 are very, very athletic, and we have had to find ball
24 teams at other districts, other towns because Guy
25 doesn't have that. They've asked us to play

1 baseball. Well, I don't want my girls playing
2 baseball; I want my girls playing softball. And so
3 we've kind of had to move to find them places,
4 because we don't have enough children there for that.
5 And so it's hard to become completely involved in
6 situations like that.

7 Like I said, my husband and I are just -- we
8 really want to be committed to a community. And my
9 family lives in Rosebud and so we drive through
10 Quitman. And just seeing the involvement that they
11 have, the parades they put on and the school
12 activities that they have, we want our children to be
13 a part of that. And like I said, Guy is a great -- I
14 mean I work there. It is great; I just don't think
15 it is right for our girls, and so that's why I'm
16 here.

17 CHAIRMAN ZOOK: Does anyone have any questions
18 for her before the District steps up?

19 Ms. Newton.

20 MS. NEWTON: I'm just a little bit confused.
21 You said you're a teacher at Guy?

22 MS. HARRIS: I am.

23 MS. NEWTON: What do you teach?

24 MS. HARRIS: I teach 3rd grade.

25 MS. NEWTON: Did you have your daughter?

1 MS. HARRIS: I did.

2 MS. NEWTON: But you're saying the academics
3 wasn't where it needs to be?

4 MS. HARRIS: You're correct. My daughter has
5 been in the same classroom. We maxed out last year
6 with the classroom. And that's another concern is
7 that since kindergarten this has been a massive
8 behavior issue, this classroom. I don't really want
9 to talk as a teacher up here; I'd like to talk as a
10 parent. I don't know, you know, what I can, you
11 know, do in that case. My daughter has received
12 threat letters in the classroom. As parents, we have
13 been to the board, we have been to administration,
14 and nothing was ever done about that. Academically,
15 the needs that are in our classroom that are not
16 being met from outside sources and, you know, people
17 who need to come in -- it's just -- both of my
18 daughters were in speech; they were never picked up
19 for speech except for maybe once a month. They're
20 just not getting the education and the help that they
21 need there.

22 CHAIRMAN ZOOK: Okay. Dr. Hill? Ms. Dean?

23 MS. DEAN: So are you looking to move? Are you
24 looking to -- for employment elsewhere since there
25 seems to be an issue at Guy-Perkins? Is that -- has

1 that been an option?

2 MS. HARRIS: Yes. My girls are young, and we
3 want to be completely invested. We've lived here for
4 four years. We lost my dad last month, in Rosebud,
5 and so my family will be moving to Quitman in the
6 next year too. My husband has a -- he'll -- he has a
7 huge advancement at his job next month, and so we'll
8 be selling and re-buying in Quitman to get us --
9 that'll put us halfway closer to Rosebud. We don't
10 want to live in Rosebud but we want to be closer to
11 home, and I know -- I know that Quitman has what my
12 children need. I know this. I've -- I'm a teacher;
13 I've done my research, and I know that Quitman is
14 where my children need to be.

15 CHAIRMAN ZOOK: Okay. Ms. McFetridge?

16 MS. McFETRIDGE: No.

17 CHAIRMAN ZOOK: Mr. Williamson?

18 MR. WILLIAMSON: Okay. So I just heard you say
19 that you all are moving to Quitman in the next month;
20 is that what --

21 MS. HARRIS: No. No, sir. We live in Guy.

22 MR. WILLIAMSON: Right.

23 MS. HARRIS: My husband will get an advancement
24 at his job. And so we don't want to move --

25 MR. WILLIAMSON: He's in -- his job is in

1 Quitman, is that --

2 MS. HARRIS: Huh-uh. No, his -- no, his job is
3 in Greenbrier.

4 MR. WILLIAMSON: Okay.

5 MS. HARRIS: I mean he travels but the main
6 office is in Greenbrier. I think eventually that I
7 would like to work at Quitman. Obviously, I'm
8 putting my children there, you know.

9 MR. WILLIAMSON: Uh-huh.

10 MS. HARRIS: But right now it's just -- I wasn't
11 sure where my children were going to be able to be
12 this year --

13 MR. WILLIAMSON: Okay.

14 MS. HARRIS: -- if that makes sense. I wasn't
15 sure how this would get approved.

16 Another thing is that I did School Choice. I
17 sent the paperwork in and Quitman received it April
18 23rd. I received acceptance from Quitman the end of
19 May. On July 18th I called Guy-Perkins to ask them
20 what the status was on it, and the secretary in the
21 office told me that it was denied but she just never
22 got the letter out. And so she then called Quitman
23 and had them call me to do the denial on July 18th,
24 which I thought was kind of a long gap there.

25 Because since we received our acceptance at Quitman

1 we've enrolled them in Quitman already; we have
2 transportation to and from Quitman already. But she
3 informed us that because we'd hit the 3% gap [sic]
4 that we were denied, even though we never received a
5 denial letter.

6 CHAIRMAN ZOOK: Okay. Let me ask Ms. Dedman a
7 question. On the notification to parents, is that --
8 they have to address the letter to the parent by July
9 1st or they have to have the letter in their hand by
10 July 1st?

11 MS. DEDMAN: They're supposed to notify the
12 parent. If they've got the -- let me see here. The
13 parent must apply by May 1st; the districts must
14 notify the parent no later than July 1st; and once
15 they have the information they're supposed to send it
16 from district to district within 10 days of receipt.

17 CHAIRMAN ZOOK: Okay.

18 DR. MOORE: Jennifer, may I ask a question? So
19 is it normal that a district would accept a parent
20 and then later find out that it was denied? I
21 thought they were supposed to communicate.

22 MS. DEDMAN: The districts should be
23 communicating, but often the parent receives an
24 acceptance letter from the non-resident district
25 before the resident district has had a chance to

1 communicate that they've reached their 3% cap or some
2 other limitation applies.

3 DR. MOORE: Okay. Okay, thank you.

4 CHAIRMAN ZOOK: Ms. McAdoo?

5 MS. McADOO: No.

6 CHAIRMAN ZOOK: Okay. Anyone else?

7 So, and you did say you got the letter on July
8 1st -- I mean 18th?

9 MS. HARRIS: The letter from --

10 CHAIRMAN ZOOK: Rejection letter.

11 MS. HARRIS: No, ma'am, we never received one.
12 I called to ask and they informed me over the phone.

13 CHAIRMAN ZOOK: Okay. So we're putting a lot of
14 onus on the parent, which I know they're looking out
15 for their child but we as districts have to do too.
16 So we're --

17 Do you have anything else you want to say?

18 MS. HARRIS: No, ma'am.

19 CHAIRMAN ZOOK: Okay. We'll have to hear from
20 the -- we will get to hear from the District now.

21 We all know you, but be sure and identify
22 yourself.

23 DR. FISHER: Good morning. Good to see you
24 again. Joe Fisher, the Guy-Perkins School District
25 superintendent.

1 Let me address that issue first -- and I think
2 it's in your packet, so I don't want to be redundant
3 if you've already seen this information.

4 CHAIRMAN ZOOK: Okay.

5 DR. FISHER: But it was our understanding
6 through our secretary that Ms. Harris had pulled that
7 particular application. We had actually marked it
8 with a Post-It note that said Withdrawn, and so we
9 did not notify the Quitman School District nor the
10 parent at that point -- or we would've, like we did
11 all of our other applicants that had applied. So --

12 CHAIRMAN ZOOK: Okay, thank you for that
13 clarification.

14 DR. FISHER: I wanted to clarify that point, but
15 it was our understanding. So when she called and
16 said she had not received the letter, then obviously
17 we righted our misunderstanding and contacted the
18 Quitman School District and verbally contacted her,
19 obviously because she was in communication with us.
20 So that was our understanding or we would've already
21 contacted her.

22 As far as academics, you know, I do appreciate
23 her being a part of our teaching staff very much. We
24 are working on academics. As the new superintendent
25 that's the first thing that we're looking at,

1 developing our PLCs, as we're learning this week in
2 our conference. And so I feel fairly sure that as we
3 look at our academic scores that we will be working
4 on those.

5 As far as safety, anybody that's been through
6 the Guy community, you will know that we have a
7 police officer that sits in our front door, in an
8 orchard there 24/7. So don't speed; that's the first
9 warning. And, second of all, we feel fairly safe, as
10 I have communicated with him that he is there
11 watching over our building; we can contact him. He's
12 actually the police chief.

13 Lastly, we have great sports, great softball;
14 would love to continue to have the Harris Family
15 participating in that, you know, when they're old
16 enough to participate in that.

17 So, that's all I have for you.

18 CHAIRMAN ZOOK: Okay. Any questions for the
19 superintendent?

20 Congratulations on your new position.

21 DR. FISHER: Thank you.

22 MS. McFETRIDGE: I do have a question for you.
23 How did you find out that the Harris Family pulled
24 their application?

25 DR. FISHER: When I first came in it was one of

1 the things we talked about because we were looking at
2 our numbers, looking at those that had met the
3 cutoff. And I think our cutoff actually occurred in
4 March, hers was submitted in April; so we already
5 knew at that point. But when I came onboard I looked
6 at those; I looked at those that were employees. And
7 so I saw a Post-It note on there that stated that she
8 had pulled that; she had verbally given that. When I
9 did my listening tours I do remember the family
10 talking about reconsidering that. I knew that they
11 had submitted that when I did listening tours as I
12 was hired. And so it was my understanding as well,
13 or we would've already sent them a letter.

14 MS. McFETRIDGE: Thank you.

15 DR. FISHER: Thank you.

16 MS. McFETRIDGE: Thank you for that.

17 MR. PEKRON: This is Mr. Pekron. I have a
18 question.

19 CHAIRMAN ZOOK: Okay.

20 MR. PEKRON: I don't think it's with the
21 superintendent, but it may be for Jennifer or
22 somebody else. What do we do when the school has
23 reached the 3% enrollment to research or investigate
24 as a board the reasons why a particular school
25 district has a high number of students transferring

1 out of it?

2 MS. DEDMAN: I'm hearing you ask what can the
3 Board do to investigate why a District has met its 3%
4 cap. Often when the District is available during a
5 School Choice hearing that's one of the questions
6 that we might ask the District is what's going on in
7 the District; you know, why are we reaching our 3%
8 maximum.

9 MR. PEKRON: But that's nothing that we've done
10 in the past affirmatively?

11 CHAIRMAN ZOOK: Would you say that again?

12 MR. PEKRON: That's not an issue that we've
13 looked at affirmatively is why schools are hitting
14 the 3% cap?

15 MS. DEDMAN: I'm hearing you ask is that not a
16 permanent issue that we every year have schools --

17 MR. PEKRON: No, I'm sorry.

18 SECRETARY KEY: Let me --

19 MR. PEKRON: As a Board, we do not currently
20 have a policy of if a school hits 3% we affirmatively
21 go in and look at why that school is having outflow?

22 CHAIRMAN ZOOK: Commissioner.

23 SECRETARY KEY: Yeah, if I may. Mr. Pekron, I
24 think you're asking if there's any investigation of
25 -- or do we as the Agency independently verify the

1 Districts in their claims of 3%, and we do not.
2 There will be some cases later today where we'll get
3 into -- where we ask the District to verify that they
4 counted correctly with respect to the net; so that's
5 really the only thing. Because the law says it has
6 to be a net 3% loss, we don't actually go and ask
7 them to justify the original numbers for the 3%. But
8 in some cases we have said, "Make sure you're
9 calculating it to account for the kids coming in as
10 well as the kids that you are losing."

11 So to help Jennifer -- not that she needs help,
12 but I think we were having trouble hearing what your
13 question was. So I want to make sure, Mr. Pekron, is
14 that your question of whether we independently verify
15 the 3% calculations and the reasons why?

16 MR. PEKRON: No. This is part of the reason I'm
17 on the -- I'm having trouble being on the phone.
18 But, you know, I'm wanting to know like, for example,
19 this school district has had a 3% outflow, and there
20 are others that have had at least the 3% outflow.
21 What I want to know is when a school district has a
22 3% outflow are we as a board thinking, oh, this is a
23 school that is or may be having some sort of an issue
24 that's resulting in this outflow? Do we look into it
25 at all? That's what I'm -- that's what I'm looking

1 at. Is this a school that somehow needs additional
2 support or something like that? That's my question.

3 CHAIRMAN ZOOK: Okay. Ms. Dedman.

4 MR. PEKRON: And we can have this discussion
5 another time if it's more complicated.

6 SECRETARY KEY: So that does not create for us,
7 at least up to this point, any type of trigger to dig
8 deeper. That is just simply a level at which for the
9 purposes of School Choice we bring that information
10 to you as a Board. But it doesn't trigger any type
11 of support for those districts or looking into those
12 districts to see why there is an outflow. You know,
13 if districts want our help, then that may be
14 something they ask us for. To my knowledge, that has
15 not been -- that has not occurred in any of the 3%
16 cases.

17 MR. PEKRON: Okay. But I just find it
18 concerning when I see something like this. But we
19 can have that conversation -- we can have a more in-
20 depth another time.

21 But I would like to ask the Superintendent
22 [inaudible, phone cutting out]. What is your
23 understanding of why you have the 3% outflow?

24 CHAIRMAN ZOOK: Did you understand the question?

25 DR. FISHER: I think I do. As you may remember,

1 our total population is under 350 right now. So when
2 you talk about 3%, we're talking about 10 students;
3 we're not talking about a mass exodus of 50 to 100.
4 So I think that's an important point for you to
5 understand.

6 The second thing is, you know, for a long time
7 we've had a lot of athletics in the Guy-Perkins
8 School District -- well-known for basketball. Our
9 basketball coach has retired since then. You know,
10 there have been changes in leadership, that sort of
11 thing. But the districts that are around us -- and I
12 commend them -- have fantastic offerings for
13 students. Those are things that we will be
14 addressing to try to provide culturally, in our
15 culture of -- in fact, I'm looking at a farm-to-table
16 program right now that would fit our area. But right
17 now they're offering programs. Because of the number
18 and the size and the population they have, they can
19 offer football, they can offer different types of
20 sports that we're unable to offer. So part of that
21 is just part of the system and the numbers.

22 MR. PEKRON: Okay, thank you.

23 CHAIRMAN ZOOK: During the Lake View case when
24 consolidation was being considered, the number I
25 think -- with the discussions in the Legislature and

1 the people, they went from thinking a school needed
2 to be a certain number of kids in order to provide
3 all of those different offerings so you might not
4 have this kind of situation. The number they settled
5 on was 350, which, you know, people can argue that
6 flat or round.

7 But the total number that requested to transfer
8 into your district were four families; right?

9 DR. FISHER: Correct.

10 CHAIRMAN ZOOK: And the total number that
11 requested to leave were 14 families, and that made
12 the net 10. And so you have reached -- that is your
13 3%; correct?

14 DR. FISHER: Yes. And I think it's actually
15 over that because of the same family --

16 CHAIRMAN ZOOK: Well, yeah, right. You have six
17 kids in and 21 kids out because of the number of kids
18 within a family.

19 DR. FISHER: And I did find out in our office,
20 with all true disclosure, that we weren't actually
21 figuring that correctly. So we may have let a few
22 more out that probably should not have been out.

23 CHAIRMAN ZOOK: Right.

24 DR. FISHER: Or at least granted.

25 CHAIRMAN ZOOK: Right. Right.

1 DR. FISHER: So -- but I will say this to your
2 point is we are working very closely with our
3 teachers this year. We want to provide the very
4 best. You know, I've been in Bryant, I've been in
5 Mountain Home, I've been in large districts where
6 I've looked and said, "Wow, these districts that have
7 great testing scores and great programs are in small
8 districts. I'd love to be in a small district and do
9 that." Here I am.

10 CHAIRMAN ZOOK: That's right, there you are.
11 Dr. Hill.

12 DR. HILL: I just wanted to make sure from the
13 parent. She said that her daughter played softball,
14 and there was not softball and she'd been encouraged
15 to play baseball. Is that right?

16 DR. FISHER: You know, I wasn't -- the
17 problematic things that were brought up concerning
18 IEPs and things, I visited with the principal; I'm
19 not aware of these concerns. I'm not aware of her
20 being asked to play baseball. Coach Guiden [ps] is
21 our baseball coach, and I'm not aware of that
22 invitation.

23 DR. HILL: Okay.

24 MS. DEAN: So --

25 CHAIRMAN ZOOK: Ms. Dean.

1 MS. DEAN: Thank you --

2 CHAIRMAN ZOOK: No problem.

3 MS. DEAN: -- Madam Chair.

4 So you do actually have softball?

5 DR. FISHER: Yes. I think maybe she's looking
6 at Pee Wee; I'm not sure. That might be something
7 you want to ask her.

8 CHAIRMAN ZOOK: Any other questions before the
9 superintendent sits down?

10 Okay. And you had a question for the parent?

11 DR. HILL: Yes.

12 CHAIRMAN ZOOK: Okay.

13 DR. FISHER: Thank you.

14 CHAIRMAN ZOOK: If you'll come back to the
15 podium, please.

16 DR. HILL: Yes, ma'am. I just wanted
17 clarification on the extracurricular activities that
18 you said that were not there. And you -- and did I
19 understand you right to say that your daughter plays
20 softball? They didn't have softball, but told her to
21 play baseball? Did I hear that correct?

22 MS. HARRIS: Yes.

23 DR. HILL: Okay. Explain that to me.

24 MS. HARRIS: Okay. So he was referring to Coach
25 Guiden being softball. High school does have

1 softball; the lower grades do not. So whenever it
2 comes like to school basketball there was not a 3rd
3 grade team last year, so she had to play up on a 4th
4 grade team. There was only one 4th grader; so all
5 year the girls scored four points at every game
6 combined. You know, so they're not getting the
7 foundation skills because we don't have the children
8 to create one team for a grade. Does that make
9 sense? I don't know if I'm explaining that
10 correctly. And so the same with softball; so,
11 they're just trying to combine and put girls and boys
12 on one team to create teams. Well, that's --

13 DR. HILL: That's for the younger ages?

14 MS. HARRIS: Correct, yes. I don't have any in
15 high school. My oldest is going into 4th.

16 DR. HILL: Okay.

17 MS. HARRIS: And so it would be that.

18 I would like to say about Dr. Fisher mentioned
19 me talking about pulling my girls. Whenever I met
20 with the secretary -- it's a small town; I know them
21 all by name, I know all their families. So we were
22 in casual talk and she said, "Well, we've hit" -- she
23 said, "We've hit our max. We hit our max on March
24 13th." I said, "Oh, my lands. Well, if we hit our
25 max on March 13th I may not get, you know, accepted."

1 I said, "If not," I said, "I guess maybe we will stay
2 at Guy school if we won't get accepted." And that
3 was before I knew that there was a such thing as an
4 appeal and, you know, things like this. And so that
5 was the conversation with that.

6 When Dr. Fisher came to meet with the teachers
7 -- I am very impressed by Dr. Fisher. I said that
8 from the beginning. I really feel like if the school
9 is going to turn around I think that he could
10 probably do it. But my husband and I's issue is that
11 we've gone through four superintendents since I've
12 been there, in five years. I don't know that I -- I
13 don't -- I mean, is it -- it's not really fair for my
14 girls to be the guinea pigs on thinking, okay, it's
15 going to change this year; okay, it's going to change
16 this year. And we've not had change in academics or
17 sports or any of this in this many years, and so, you
18 know, do I hold out one more year? I can't do that.
19 And so I feel like it's in my family's best interest
20 to plant somewhere that my children can stay, and
21 that's what we want. We want a community that's
22 supportive and we want to support that, and we're
23 just not getting that where we are.

24 CHAIRMAN ZOOK: I don't know if those of you who
25 are on the Board are familiar with that part of the

1 state, but --

2 MR. WILLIAMSON: That's what I was just --

3 CHAIRMAN ZOOK: -- Rosebud and Quitman and Guy-
4 Perkins, those are all right there. You know, it's
5 sort of like you think Northwest Arkansas, but you
6 really think Fayetteville, Rogers, you know. It's
7 the same kind of thing. It's just a much more rural
8 area in mine and Sarah's congressional district.

9 MS. HARRIS: Yes.

10 CHAIRMAN ZOOK: Thank you.

11 MS. HARRIS: Thank you.

12 CHAIRMAN ZOOK: Ms. Newton? I'll come back to
13 you if you're not ready.

14 Dr. Hill?

15 DR. HILL: No, I don't have any.

16 CHAIRMAN ZOOK: Ms. Dean? Ms. McFetridge? Mr.
17 Williamson?

18 MR. WILLIAMSON: I'm okay, thank you.

19 CHAIRMAN ZOOK: Dr. Moore? Ms. McAdoo?

20 MS. McADOO: I don't have a question, but I do
21 know that this has to be an extremely difficult
22 position for you to be in.

23 MS. HARRIS: It is. My husband is out of town
24 working today, and he said, "I wish so bad that I
25 could be there." And I told him the hardest part is

1 going to be going against the District that I work
2 for, because it is -- I mean, it is a good district,
3 you know. But we just don't have what I feel like my
4 girls need and it's hard to come here and be a
5 teacher and a parent and not know how to be polite
6 and how to be, you know, where I need to be in this
7 situation.

8 CHAIRMAN ZOOK: Well, you've done a good job of
9 balancing the two.

10 MS. HARRIS: Well --

11 CHAIRMAN ZOOK: And I appreciate the question,
12 that you preferred to speak here as a parent, not a
13 teacher.

14 MS. HARRIS: Yes, ma'am.

15 CHAIRMAN ZOOK: Anyone else?

16 Any more questions for the superintendent?

17 Do I have a motion?

18 MR. PEKRON: Motion to approve the transfer.

19 CHAIRMAN ZOOK: Motion by Mr. Pekron to approve
20 the transfer.

21 Do I have a second?

22 DR. MOORE: I'll second.

23 CHAIRMAN ZOOK: Second by Dr. Moore.

24 All in favor? Roll-call.

25 Okay. May we have discussion, please?

1 MS. NEWTON: I'm a little bit torn that sports
2 at a very, very young age plays an issue in
3 transferring a child. That really troubles me. And
4 I know you're not speaking as a teacher, but it just
5 -- I'm just -- I'm really struggling with this one on
6 being able to -- you know, you're saying this is a
7 good district and they're working, and so I'm
8 struggling with this one. So I'll just leave it
9 there.

10 CHAIRMAN ZOOK: Other discussion?

11 MS. McFETRIDGE: I'm really struggling with this
12 case as well. My heart really goes to you. We've
13 had a chance to visit with your new superintendent
14 several times now. I think he's going to do a great
15 job, I really do. And I would really like to see you
16 try it for another year. I really do.

17 CHAIRMAN ZOOK: Other comments?

18 Okay. We have a motion on the floor to approve
19 the transfer. Roll-call.

20 SECRETARY KEY: Mr. Pekron.

21 MR. PEKRON: Yeah.

22 SECRETARY KEY: Dr. Hill.

23 DR. HILL: Yes.

24 SECRETARY KEY: Mr. Williamson.

25 MR. WILLIAMSON: No.

1 SECRETARY KEY: Ms. McFetridge.
2 MS. McFETRIDGE: No.
3 SECRETARY KEY: Dr. Moore.
4 DR. MOORE: Yes.
5 SECRETARY KEY: Ms. Newton.
6 MS. NEWTON: No.
7 SECRETARY KEY: Ms. Dean.
8 MS. DEAN: No.
9 SECRETARY KEY: Three yea's, four no's.
10 CHAIRMAN ZOOK: Motion fails.
11 MS. HARRIS: Thank y'all.
12 MS. NEWTON: Do we need to do another motion or
13 is that -- because his motion was to approve, does
14 that automatically make it not --
15 SECRETARY KEY: Yes.
16 MS. NEWTON: Okay.
17 SECRETARY KEY: I believe in that case --
18 MS. NEWTON: Okay.
19 SECRETARY KEY: -- that is the only motion and
20 action the Board needs to take.
21 MS. NEWTON: Okay. Thank you.
22 CHAIRMAN ZOOK: Okay. We're going to take a
23 break, about 10 minutes. It's now four minutes till,
24 so we'll come back at five minutes after.
25 (BREAK: 9:56 - 10:06 A.M.)

1 CHAIRMAN ZOOK: Our next item on the agenda is
2 (f), the Howard Family. Ms. Dedman -- oh, sorry.
3 No? (e) was Guy-Perkins/Quitman, (f) is Howard. Do
4 I have the names -- oh, that's right. I'm sorry. I
5 forgot to make an X there. It takes pretty much all
6 of us to get me straight.

7 h) FITE FAMILY

8 CHAIRMAN ZOOK: Okay, (h) -- Ms. Dedman, I'm
9 sorry if we rushed you.

10 MS. DEDMAN: No, ma'am. We have --

11 CHAIRMAN ZOOK: Fite, is it Fite?

12 MS. DEDMAN: It's Fite.

13 CHAIRMAN ZOOK: Fite. The Fite Family Malvern-
14 to-Bismarck request.

15 MS. DEDMAN: Yes, we do, we have the Fite
16 Family. They reside in Malvern; they've requested a
17 transfer to Bismarck. We have a couple of Malvern
18 cases in a row. The issue in each of them is that
19 we've reached the 3% cap at Malvern and that was the
20 reason for the denial. The Bismarck School District,
21 it is my understanding, would have accepted the Fite
22 Family.

23 CHAIRMAN ZOOK: Okay.

24 MS. DEDMAN: All witnesses need to be sworn and
25 then I'll contact the Fite Family.

1 CHAIRMAN ZOOK: Okay. Would those of you who
2 will be giving testimony in this instance please
3 stand and raise your right hand? Do you swear or
4 affirm that the testimony you're about to give shall
5 be the truth, the whole truth and nothing but the
6 truth?

7 (ALL WITNESSES ANSWERED AFFIRMATIVELY)

8 CHAIRMAN ZOOK: You may be seated. Thank you.

9 MS. NEWTON: Ms. Zook, I just realized that one
10 of the defendants is former student of mine. So I
11 need to ask Legal if I need to recuse.

12 CHAIRMAN ZOOK: If you don't think you can be
13 impartial, then you would need to recuse.

14 MS. DEDMAN: Ms. Zook is right. It's a decision
15 for you to make as to whether you can impartial in
16 this matter. You may recuse yourself if you feel
17 that that's not the case.

18 MS. NEWTON: It's probably better if I just --
19 for the parents, I think it would be better if I do.

20 CHAIRMAN ZOOK: Okay. It's my understanding if
21 you abstain you can stay in here; if you recuse you
22 leave the room. Is that correct?

23 Okay. We're not going to make you leave the
24 room.

25 MS. NEWTON: Okay. I'll sit here and be real

1 quiet.

2 CHAIRMAN ZOOK: Remind me not to ask you any
3 questions.

4 Okay. If the parents -- do you want to present
5 first?

6 Okay. If you will identify yourself, please?

7 MS. FITE: I'm Lori Fite. I'm mother of Madison
8 Fite. And we've had her in Bismarck School District
9 her whole life; she's going in the 3rd grade. A lot
10 of that, we wasn't a hundred percent sure where that
11 boundary line was. In looking at the map, it is
12 obviously close to our property line. However, she
13 knows her teachers at Bismarck, she knows her
14 friends, family. But on the other hand, my father is
15 also a help to us getting her off the bus. He's a
16 quadriplegic; he cannot leave his home for lengthy
17 periods of time. His wife is his sole caregiver and
18 she can't leave him for very long at a time to go
19 three or four miles down the road to get her off of
20 the bus. So they're a big help to us, and a big help
21 to them as well to have her there.

22 And then, you know, we've lived in our location
23 for four years. We've never seen the Malvern bus
24 come by our home; Bismarck bus does. So they pick
25 her up of a morning and then she'll get off the bus

1 at my parents' house, as we both work 8:00 to 5:00
2 jobs. Normally I'm home by 5:00 or 5:30, but my
3 husband works in construction and we don't always
4 know for sure when he's going to be able to come
5 home.

6 And like I said, we've had her in Bismarck since
7 she started school. And then we've got a younger son
8 that'll be starting kindergarten next year that we're
9 going to have to probably do the same thing with.

10 CHAIRMAN ZOOK: Okay. And you've been attending
11 on School Choice in the past or just confusion about
12 the line?

13 MS. FITE: Mostly just confusion about the line.

14 CHAIRMAN ZOOK: Okay, thank you.

15 Does anyone have questions for her, I guess?

16 Dr. Moore.

17 DR. MOORE: So was it -- did it come to your
18 attention just this year --

19 MS. FITE: Yes.

20 DR. MOORE: -- about the line?

21 MS. FITE: Yes. And it was brought to our
22 attention -- the school principal called me one
23 afternoon and told me that -- you know, she said,
24 "You realize you live in the Malvern School District
25 and you need to go ahead and fill out the School

1 Choice application." So, we did.

2 DR. MOORE: That's difficult. Well, are there
3 other -- is it a rural area? Are there other --

4 MS. FITE: It is a rural area, and there are
5 several families that live in that general vicinity.

6 DR. MOORE: Okay. And --

7 MS. FITE: They have all, I think, got the same
8 problem.

9 DR. MOORE: Okay. And your daughter, she's been
10 at Bismarck her whole --

11 MS. FITE: Yes.

12 DR. MOORE: Okay. Thank you.

13 CHAIRMAN ZOOK: Mr. Williamson?

14 MR. WILLIAMSON: No questions.

15 CHAIRMAN ZOOK: Ms. McFetridge?

16 MS. McFETRIDGE: I want to make sure I
17 understand. The Bismarck school bus drives by your
18 house?

19 MS. FITE: Yes.

20 MS. McFETRIDGE: But the Malvern bus does not?

21 MS. FITE: No. Malvern bus, the last I was
22 told, is turning around about a half-a-mile to a mile
23 down the road. I don't know if it's because they
24 haven't had the children going to their school or
25 what. But it's kind of a gray area there, I think,

1 with the school district.

2 CHAIRMAN ZOOK: Ms. Dean? Dr. Hill? Ms.
3 McAdoo?

4 Okay. Any questions, discussion before she sits
5 down?

6 Okay, thank you.

7 MS. DEDMAN: We have representatives here from
8 both districts.

9 CHAIRMAN ZOOK: Okay.

10 MS. DEDMAN: Jace Roberts is going to speak
11 first for Malvern, the resident district.

12 CHAIRMAN ZOOK: Okay, resident district. And
13 identify yourself please.

14 MR. ROBERTS: Hi. Jace Roberts, Chief of Staff
15 of the Malvern School District.

16 This is a 3% issue for us. I know we've got a
17 couple more up here. Just to save you a couple of
18 questions probably that you have in your mind, this
19 is a net transfer. We had -- our initial cap was 58,
20 but we had four choice-in which got us up to 62. As
21 you see, we had a couple resolved earlier that
22 involved us that was with families -- when we had
23 heard from a student that no longer wished to
24 transfer, we went to the next in line. That's why
25 the two that were on your agenda are no longer on

1 your agenda. And I can answer any questions about
2 our 3% that you'd like me to.

3 CHAIRMAN ZOOK: It's 3% net, not over capacity
4 within a class?

5 MR. ROBERTS: Yes, ma'am.

6 CHAIRMAN ZOOK: Okay, thank you.

7 Dr. Hill? Ms. Dean? Ms. McFetridge?

8 MS. McFETRIDGE: Yes. Maybe can you address the
9 school bus situation?

10 MR. ROBERTS: Yeah. I don't know that that
11 would be an issue from -- I mean, I can't speak for
12 our transportation director; I don't do much with
13 transportation. But my guess is in terms of a school
14 bus going there, when we're talking about school
15 lines we're going to go pick up where we have
16 families. So if we don't -- and this is a rural
17 area, so if we don't have a family right there we're
18 not necessarily going to run a bus a mile further out
19 than where we were if we didn't have anybody to pick
20 up, if that makes sense.

21 MS. McFETRIDGE: Sure. So you feel like you
22 would look at that?

23 MR. ROBERTS: I don't believe that would be an
24 issue.

25 MS. McFETRIDGE: Okay, thank you.

1 CHAIRMAN ZOOK: Mr. Williamson? Dr. Moore? Ms.
2 McAdoo?

3 Okay, thank you.

4 MR. ROBERTS: Thank you.

5 MR. PEKRON: I have a question.

6 CHAIRMAN ZOOK: Okay. I apologize, Mr. Pekron,
7 I keep forgetting that you're there. So thank you
8 for speaking up.

9 MR. PEKRON: It's okay.

10 Sir, could you touch on the reasons why you
11 believe the Malvern School District has reached that
12 3% cap this year?

13 MR. ROBERTS: You know, I could give it my best
14 guess. There's a couple of different issues. One,
15 we're in an interesting situation in that we have six
16 school districts within a stones throw of each other.
17 There's also a good bit of poverty in this -- in our
18 area, which leads to a lot of jumping around from
19 school to school. I can tell you even in my
20 situation from doing the School Choice paperwork each
21 year we see, you know, students who choice from year
22 to year; so there are some repeat choicers.

23 You know, that's a question we ask our-self. We
24 have almost brand-new facilities across the board.
25 We're in the middle of a complete high school

1 renovation at this point. We were just awarded a
2 RISE training award from the ADE specifically for our
3 efforts with RISE in K through 2. You know, we think
4 we're doing, you know, as good a job as we can, and,
5 you know, that's a question you ask yourself on a
6 daily basis. Obviously, you're somewhat limited in
7 what you can ask parents as they leave.

8 MR. PEKRON: Thank you.

9 CHAIRMAN ZOOK: What about your dyslexia
10 screening and service? I got some data about that.
11 And do you want to brag about that?

12 MR. ROBERTS: Yeah, it was good as well. You
13 know, I'm probably not the best person to talk on
14 that. But we've made great efforts with that to, you
15 know, move stuff around and make sure that we have
16 enough staffing to do as good a job as we can on
17 that.

18 CHAIRMAN ZOOK: Okay. Anything else?

19 Okay. Does the non --

20 MR. PEKRON: I'm sorry; I have one more
21 question.

22 CHAIRMAN ZOOK: Mr. Pekron.

23 MR. PEKRON: So I just want to confirm my
24 understanding. The students at issue in this appeal
25 have never been in the Malvern District?

1 MR. ROBERTS: Correct.

2 MR. PEKRON: Thank you.

3 MR. ROBERTS: Well, let me rephrase that --
4 that's my understanding.

5 MR. PEKRON: Thank you.

6 CHAIRMAN ZOOK: Commissioner.

7 SECRETARY KEY: Just something that was
8 mentioned that -- for point of clarification. The
9 boundary issue in this area, is that -- talk about
10 that. I mean what's -- is there anything being done
11 between the two districts? And, as you said, with so
12 many districts within a close radius how are these
13 boundary issues being -- what's the conversation
14 around those?

15 MR. ROBERTS: What we suggest is for the parents
16 to call us immediately. And I'll tell you the
17 biggest issue we actually have is out in Diamondhead
18 community. I don't know if you guys are familiar.
19 There's actually three school districts in one
20 neighborhood community, which, you know, can become
21 an issue from time to time. That gets even more
22 complicated in terms of School Choice because
23 Lakeside is one of those school districts. So what
24 we suggest is to call us. You know, we have a great
25 assessor's website that you can look up any address

1 very quickly and easily on. You know, we are, you
2 know, very lucky in that regard. I know some
3 counties don't have that. And, you know, again,
4 we're helpful with that in any way we can.

5 SECRETARY KEY: Thank you.

6 CHAIRMAN ZOOK: Anything else?

7 Okay. The nonresident district -- if you will
8 identify yourself.

9 SUPT. KISSIRE: Good morning. I'm Susan
10 Kissire; I'm the superintendent at Bismarck School
11 District.

12 Just kind of to address too with the boundaries
13 and the buses -- the area actually for both families
14 that we have here today, one side of the road is the
15 Malvern District and the other side is the Bismarck
16 School District. And we have that with Lakeside,
17 Lake Hamilton. So it's not uncommon for a lot of our
18 buses that -- you know, you'll be driving down the
19 road and you'll see two or three school buses from
20 the different districts, because we are so rural. So
21 we're, you know, passing each other quite a bit.
22 Also being so rural a lot of the roads are narrow
23 two-lane, so a school bus may have to pass a little
24 bit into another district to find a safe location to
25 turn the bus around. So that's also something with

1 that.

2 I don't know the Fite Family well; I've just got
3 to spend a little bit of time with them. But I know
4 that their little girl is a great little girl and
5 she's worked hard and she's, you know, making
6 advancements in school, and we'd love to keep her.
7 Of course, we respect the law and always want to
8 follow the law, but we also know that she has been
9 there for a few years and we would never want to do
10 anything to upside the educational process for her.
11 So --

12 CHAIRMAN ZOOK: Questions?

13 What is your total enrollment?

14 SUPT. KISSIRE: We have about 989 students.

15 CHAIRMAN ZOOK: Okay. As I was looking at your
16 dyslexia numbers, what we would expect and what you
17 have is -- doesn't gee-haw. And so can you address
18 that?

19 SUPT. KISSIRE: Well, I can tell you that we
20 have a very successful school district, Bismarck
21 School District is. But we also do have a higher
22 number than average with our SPED population and our
23 students that we work with with our dyslexia program.
24 We use the Sunday program with our students, and I do
25 feel like that that's been very successful with our

1 students. But we do have a higher-than-average
2 population with that. Same thing, like I said, just
3 overall with our general, you know, SPED population,
4 so --

5 CHAIRMAN ZOOK: Thank you.

6 SUPT. KISSIRE: Uh-huh.

7 CHAIRMAN ZOOK: I wanted to give you a chance to
8 brag on yourself a little.

9 SUPT. KISSIRE: Yeah.

10 CHAIRMAN ZOOK: Any other questions?

11 Do the Board Members have questions of any of
12 those who presented information?

13 Are we ready to -- with a motion?

14 Ms. Dean.

15 MS. DEAN: I move to approve the transfer.

16 MR. WILLIAMSON: Second.

17 CHAIRMAN ZOOK: Motion by Ms. Dean, second by
18 Mr. Williamson to approve the transfer.

19 All in -- roll-call.

20 Does anybody want more discussion?

21 Sorry.

22 SECRETARY KEY: Mr. Pekron.

23 MR. PEKRON: Yeah.

24 SECRETARY KEY: Dr. Hill.

25 DR. HILL: Yes.

1 SECRETARY KEY: Mr. Williamson.

2 MR. WILLIAMSON: Yes.

3 SECRETARY KEY: Ms. Chambers.

4 Sorry.

5 Ms. McFetridge.

6 MS. McFETRIDGE: Yes.

7 SECRETARY KEY: Dr. Moore.

8 DR. MOORE: Yes.

9 SECRETARY KEY: Ms. Dean.

10 MS. DEAN: Yes.

11 SECRETARY KEY: You have six yea's and on
12 recusal.

13 CHAIRMAN ZOOK: Okay, motion passes.

14 Your children will be at the Bismarck School
15 next year. Thank you for coming.

16 i) PENCE FAMILY

17 CHAIRMAN ZOOK: Next we have the Pence Family.

18 This is also a Malvern-to-Bismarck.

19 They're standing. Do you want me to go ahead
20 and swear them in before you --

21 MS. DEDMAN: Absolutely.

22 CHAIRMAN ZOOK: Thank you. Do you swear or
23 affirm that the testimony you're about to give shall
24 be the truth, the whole truth and nothing but the
25 truth?

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(ALL WITNESSES ANSWERED AFFIRMATIVELY)

CHAIRMAN ZOOK: Thank you.

MS. DEDMAN: As you said, it's -- the Pence Family lives in Malvern School District. They reside in Malvern School District, and they are requesting a transfer to Bismarck School District. Just as you saw with the last case, there was a misunderstanding as to which district the family resides in. You'll hear from the family on that count.

CHAIRMAN ZOOK: Parent -- Mr. Pence, if you will identify yourself.

MR. PENCE: I'm Toby Pence, Preston and Abby Pence's father. And my case is a lot like the Fite's. We are actually neighbors. We live less than a quarter-mile apart but it's the same community, same area, same part of the community, right on the school -- on the border. So it's been a gray area. And back in February it was brought to my attention I needed to sign papers, and received a denial in June from the Malvern District, and that's why we're here. My daughter is going into the 8th grade, my son is going into the 4th -- or 5th grade, and they've been there their whole life.

And that's all I have.

CHAIRMAN ZOOK: Okay. Thank you.

1 MR. PENCE: You're welcome.

2 CHAIRMAN ZOOK: The resident district, anything
3 else?

4 MR. ROBERTS: I'd be glad to answer any
5 questions you guys have.

6 CHAIRMAN ZOOK: Okay. Did anybody -- I'm sorry;
7 did anyone have questions of the parent? I
8 apologize, Mr. Pence. No?

9 MS. NEWTON: Not the parent.

10 CHAIRMAN ZOOK: Okay.

11 MS. NEWTON: Okay. My question is the appeal I
12 saw was -- or the application was stamped on February
13 11th that you received it. When did you reach your
14 3% cap?

15 MR. ROBERTS: I can't tell you exactly because,
16 like I said, it's been a floating number because
17 we've added a few in the past few days. But I want
18 to say it was January 16th.

19 MS. NEWTON: Okay.

20 MR. ROBERTS: And, again, the big issue with
21 that is from the denial -- I think we had 33 last
22 year that received priority and 15 siblings. So that
23 got us up to -- I'm not real good with math, but 48
24 -- 48 out of 62, that left 14 spots.

25 MS. NEWTON: Okay.

1 CHAIRMAN ZOOK: Okay. But I have a question for
2 Ms. Dedman about that. On -- so when they do their
3 net 3% do they count all the children in the family
4 or just count the family as one? Am I --

5 MS. DEDMAN: Are we talking about -- for
6 purposes of the numerator siblings are counted as
7 one. So when you're making that percentage --

8 CHAIRMAN ZOOK: Right.

9 MS. DEDMAN: -- siblings are counted as one for
10 purposes of the numerator. Now that's -- you
11 remember, that's a fixed number that we establish as
12 of October 15th of the preceding school year. So
13 that's what they're looking for.

14 CHAIRMAN ZOOK: Okay. Because I thought I
15 understood you to say that with all the siblings and
16 everybody that you went over your number?

17 MS. DEDMAN: It's -- let me clarify. The
18 siblings are one for purposes of a transfer in the
19 numerator. Does that make sense to you?

20 CHAIRMAN ZOOK: Yes.

21 MS. DEDMAN: Okay.

22 CHAIRMAN ZOOK: This is the going out, right.

23 MR. ROBERTS: 68 students -- or 62 students.

24 I'm sorry.

25 CHAIRMAN ZOOK: Okay. So it may be 100 kids, if

1 he's a very active and involved parent in the school
2 district. He actually went to Bismarck School
3 District and he lives in the same house that he grew
4 up in. So that too being on the line is part of
5 understanding that, you know, he went to Bismarck and
6 thought, well, that's where my kids will go to
7 school. So, just kind of wanted to share with you.

8 CHAIRMAN ZOOK: Mr. Secretary.

9 SECRETARY KEY: Okay. So these kids have been
10 in Bismarck since they started kindergarten. At what
11 point did somebody realize that the line -- there was
12 a problem with the boundaries? And who notified
13 whom? And I mean can you talk through that a little
14 bit?

15 SUPT. KISSIRE: Someone else actually moved in
16 close -- a neighbor moved in close to where Mr. Pence
17 is and then they came to enroll, and so whenever --
18 we went in to check to see where they were, you know,
19 district-wise, then the elementary principal said,
20 "Oh, well, you're actually in the Malvern District."
21 And they said, "Well, no, that can't be possible
22 because my neighbor, their kids go to Bismarck
23 School." "Well, no, it's Malvern School." And so
24 that's whenever --

25 SECRETARY KEY: Okay.

1 SUPT. KISSIRE: And then she notified Mr. Pence
2 and said, you know --

3 SECRETARY KEY: And so this website Mr. Roberts
4 mentioned in the last case probably didn't exist or
5 at least wasn't as robust --

6 SUPT. KISSIRE: Exactly.

7 SECRETARY KEY: -- eight years ago --

8 SUPT. KISSIRE: Yeah.

9 SECRETARY KEY: -- I'm guessing?

10 SUPT. KISSIRE: But that's what we use now to --
11 yeah, for the last few years.

12 SECRETARY KEY: Okay, thank you.

13 SUPT. KISSIRE: Uh-huh. Exactly.

14 SECRETARY KEY: That helps clarify in my mind.

15 SUPT. KISSIRE: Yeah. Yeah, that's great, very
16 helpful.

17 CHAIRMAN ZOOK: Okay.

18 DR. HILL: Is there not such a thing as a
19 grandfather clause? We need to find that out.

20 SECRETARY KEY: I would just say -- seriously
21 though, Dr. Hill, I would say that that is why the
22 law has the appeal process so that it is brought to
23 this body for consideration of the extenuating
24 circumstances. Because I don't -- I mean, I know
25 we've dealt with boundary issues. I don't know that

1 we've dealt with boundary issues where the
2 realization happened for a, you know, substantial
3 group of people at one period of time like what we
4 seem to have here. But, so I don't -- I won't say
5 "grandfather clause," because that has very specific
6 legal connotations. But that's why there is this
7 process that's available to parents.

8 SUPT. KISSIRE: Thank you for your time.

9 CHAIRMAN ZOOK: Mr. Pekron, did you have more
10 questions?

11 MR. PEKRON: No, thank you.

12 CHAIRMAN ZOOK: Ms. Newton?

13 MS. NEWTON: I guess I still wasn't real clear
14 on the net part, if he was using the families or the
15 students. When he answered the question I wasn't
16 real clear on that. But other than that, that was my
17 only question.

18 MR. ROBERTS: I'm sorry; can you ask that again?

19 MS. NEWTON: When she described the process as
20 using the families as one, is that what you were
21 doing?

22 MR. ROBERTS: Siblings count for each one, yes.

23 MS. NEWTON: So, I mean you checked and made
24 sure --

25 MR. ROBERTS: And I believe this law actually

1 changed in the Two Thousand -- in the Special Session
2 last year.

3 MS. DEDMAN: We don't verify --

4 CHAIRMAN ZOOK: Would you --

5 MS. DEDMAN: Beg your pardon. We don't verify
6 what happens, if the District uses the number that we
7 establish as of October 15th and they do the
8 calculations themselves. But as far as are they
9 using the net, Malvern gave testimony earlier that it
10 was net and that they did continue to accept families
11 as their net number changed.

12 MS. NEWTON: Okay.

13 CHAIRMAN ZOOK: I think the question that Ms.
14 Newton and I have is: is the net number the number of
15 kids or number of families since they are the
16 district from which they are moving?

17 MS. DEDMAN: I'm going to go ahead and direct
18 you to -- you've got -- in the back of your packet
19 there you've got the statute, and I'll show you what
20 it is that we're looking at here. We're going to
21 turn to -- it's 6-18-1906; so it's the one titled
22 Limitations. I'm looking on probably the second page
23 for y'all.

24 CHAIRMAN ZOOK: Okay, wait till we get there.

25 MS. DEDMAN: Uh-huh.

1 MS. NEWTON: Say that number again please.

2 MS. DEDMAN: 6-18-1906. The title of the
3 statute is Limitations.

4 CHAIRMAN ZOOK: And is it (a)(2),(3), which one?

5 MS. DEDMAN: So you're going to go to (B)(1)(b).
6 It's probably on the second page. It's this far from
7 the bottom. What the statute says is, "For the
8 purpose of determining the percentage of school
9 choice transfers under this section, siblings who are
10 counted in the numerator as transfer students shall
11 count as one (1) student." So when we say that
12 siblings are counted as one student, what we mean is
13 when we're coming up with that 3% siblings who are
14 counted in the numerator as transfer, they're one
15 student. So if you've got brothers and sisters in a
16 household that are transferring, they're one.

17 CHAIRMAN ZOOK: Okay. And does -- do you know
18 how Malvern -- if that's the way you calculated it to
19 get to your 3%?

20 MR. ROBERTS: I would have to go back to look at
21 our numbers on that. I don't have that off the top
22 of my head.

23 CHAIRMAN ZOOK: Okay. I guess I'll ask the
24 Board if you want to -- if you're ready for a motion,
25 or do you want to table this while he checks?

1 Okay. I see no indication that anybody wants to
2 table. Do you have any more questions for any of the
3 parties?

4 Seeing none, roll-call.

5 I do have a motion?

6 DR. MOORE: Motion to approve the transfer.

7 CHAIRMAN ZOOK: Dr. Moore moved that we approve
8 the transfer. Do I have a second?

9 MR. WILLIAMSON: Second.

10 CHAIRMAN ZOOK: Mr. Williamson seconds.

11 Roll-call.

12 SECRETARY KEY: Mr. Pekron.

13 MR. PEKRON: Yeah.

14 SECRETARY KEY: Dr. Hill.

15 DR. HILL: Yes.

16 SECRETARY KEY: Mr. Williamson.

17 MR. WILLIAMSON: Yes.

18 SECRETARY KEY: Ms. McFetridge.

19 MS. McFETRIDGE: Yes.

20 SECRETARY KEY: Dr. Moore.

21 DR. MOORE: Yes.

22 SECRETARY KEY: Ms. Newton.

23 MS. NEWTON: Yes.

24 SECRETARY KEY: Ms. Dean.

25 MS. DEAN: Yes.

1 SECRETARY KEY: Seven yeas, zero nays.

2 CHAIRMAN ZOOK: Motion passed. Your request is
3 granted. Thank you for your involvement as a
4 stakeholder, as a parent, and I'm pleased to hear how
5 well your students are doing.

6 MR. PENCE: Thank you.

7 j) NORWOOD FAMILY

8 CHAIRMAN ZOOK: Okay. Next is the Norwood
9 Family. Ms. Dedman.

10 MS. DEDMAN: The Norwood Family also resides in
11 the Malvern School District. They requested a
12 transfer to Glen Rose School District. They were
13 denied based on Malvern having met its 3% net maximum
14 limit. And the -- and Ms. Norwood is here today.

15 CHAIRMAN ZOOK: Would anybody expecting to give
16 testimony please stand and raise your right hand? Do
17 you swear or affirm that the testimony you're about
18 to give shall be the truth, the whole truth and
19 nothing but the truth?

20 (ALL WITNESSES ANSWERED AFFIRMATIVELY)

21 CHAIRMAN ZOOK: Okay. You may be seated.

22 MS. NEWTON: Ms. Zook, could he text somebody
23 and get them to check on the sibling number --

24 CHAIRMAN ZOOK: Yeah.

25 MS. NEWTON: -- while we're waiting?

1 CHAIRMAN ZOOK: Is there someone there that
2 could access that information for you?

3 MR. ROBERTS: Probably not, because it's on my
4 computer and I have the password.

5 CHAIRMAN ZOOK: Okay. Can you access your
6 computer from a distance or do you have to --

7 MR. ROBERTS: I cannot.

8 CHAIRMAN ZOOK: Oh, okay. Well, I understand.

9 MR. ROBERTS: I believe we calculated it as a
10 student, not a family, but I would have to double-
11 check that.

12 CHAIRMAN ZOOK: Okay. Ms. Dedman.

13 MS. DEDMAN: Mr. Roberts pointed out to me an
14 update in the law. I'll return you to that same
15 section, but in your packet you will not be able to
16 see it. If the application for transfer that causes
17 the school district to meet or exceed the 3%
18 numerical net maximum limit is on behalf of the
19 sibling group, then the district will allow all
20 siblings in the sibling group to exercise school
21 choice under this chapter. That is to say if I am
22 sending three students and my first student makes the
23 cut, and my students are related, those further two
24 students are also to go along with the first student
25 because they would cause the student sibling group to

1 be broken. So it says here that if the application
2 for transfer that causes them to meet or exceed that
3 3% limit is on behalf of the sibling group, then the
4 sibling group will exercise School Choice under the
5 subchapter.

6 CHAIRMAN ZOOK: And that's still the transfer
7 out, but not the transfer in?

8 MS. DEDMAN: That's still the transfer out,
9 absolutely. And it's still under that same section
10 about the numerical maximum limit in the same place.
11 It is an update to the law.

12 CHAIRMAN ZOOK: Mr. Secretary.

13 SECRETARY KEY: Just -- yes. I mean we -- the
14 reason that we probably don't remember it is because
15 it did happen in a fiscal or special session, not in
16 a general session. But in recalling the conversation
17 there, Senator Clark brought that issue up because he
18 felt like there was -- the 3% was no longer 3% the
19 way it was being calculated before. But in order to
20 protect situations where if anything -- any requests
21 that had multiple family member put a district over
22 that 3%, that individual request -- like the last one
23 that came -- and if there was more than one student
24 then there was consideration to be given. But we did
25 eliminate that whole numerator/denominator section

1 that was creating so much confusion, so now it is
2 student counts.

3 MR. ROBERTS: Like I said, I want to apologize.
4 I think I was misunderstanding your question, Ms.
5 Newton, when you were asking family or individuals,
6 because I knew the law had changed and that kind of
7 threw me off on -- with your question.

8 MS. NEWTON: Okay.

9 CHAIRMAN ZOOK: And this is still transfers out,
10 not transfers in? The 3% -- the only limit on
11 transfers in is if you have, quote, "over the number
12 within a class," not --

13 SECRETARY KEY: Capacity. Yes, ma'am.

14 CHAIRMAN ZOOK: Okay, capacity.

15 SECRETARY KEY: Capacity issues. But as far as
16 school choice out, it's the net. But it's the 3% of
17 all students, not --

18 CHAIRMAN ZOOK: All families.

19 SECRETARY KEY: -- families.

20 CHAIRMAN ZOOK: Right. Is everyone clear on
21 that -- or at least today?

22 Okay. Sorry for all the discussion. The family
23 --

24 MR. ROBERTS: I apologize. Y'all had me a
25 little confused because --

1 CHAIRMAN ZOOK: Well --

2 MR. ROBERTS: -- I thought the law had changed,
3 and then I was -- when you were saying "families," I
4 thought, wait a second, we're talking about students.

5 CHAIRMAN ZOOK: Yeah.

6 MR. ROBERTS: I kind of -- you know, thought I
7 could go pull my computer --

8 CHAIRMAN ZOOK: Right.

9 MR. ROBERTS: -- but I'm not -- off the top of
10 my head I'm not that good.

11 CHAIRMAN ZOOK: So you know now not to be
12 nervous in front of us; we're all working on this
13 together.

14 The Norwood Family -- thank you for your
15 patience while we got some clarification. And if you
16 will, identify yourself, anyone who's going to speak.
17 And then start your presentation.

18 MS. NORWARD: My name is Hannah Norwood. This
19 is my mom; her name is Tracy Dyer. I'm here for Lily
20 who is 5 years old and she'll start kindergarten this
21 year; Elijah, who is 11 years old, and he will go
22 into the 6th grade this year; and Hayden, who is 12,
23 and she will start 7th grade this year.

24 It has always been my intention for my kids to
25 go to Glen Rose because we -- my husband and all of

1 our family attended Glen Rose. The only reason we
2 live where we do now is because there was a medical
3 reason for my sister, who is disabled. This past
4 year-and-a-half ago she got really, really sick with
5 meningitis, so we had to move away from any kind of
6 livestock, out of a rural -- out of the country,
7 basically. So we had to move quickly to put her in a
8 safer environment, and the house we live in is the
9 first house we found that we could afford and would
10 be safe for her.

11 Last year Hayden started 6th grade at Malvern
12 and Elijah started 5th grade at Glen Rose. When we
13 got guardianship of both of them we was going to have
14 Hayden transfer to Glen Rose, but Malvern -- they
15 couldn't release her because it was past the time of
16 School Choice. And they were -- they pulled Eli out
17 of Glen Rose because he wasn't School Choiced,
18 because he had lived in Glen Rose School District
19 when the school year started. So we finished this
20 school year out last year through -- with K12 with
21 Arkansas Virtual Academy at home.

22 Elijah has went to Glen Rose since kindergarten,
23 except for this past year while he was homeschooled.
24 He has always done very well academically. He's on
25 an 8th grade reading level in 5th grade. He looks

1 really forward to going back to Glen Rose to see his
2 teachers and his friends, and he's excited to be able
3 to play sports this year.

4 Lily is very excited to start kindergarten. She
5 wants to go to school, she wants to get a backpack;
6 she wants to do the whole thing. She's really
7 excited about it. At Glen Rose she'll be able to
8 attend kindergarten with her family and her friends
9 that will be attending kindergarten this year too, so
10 she'll be familiar with people.

11 Hayden is happy about the possibility to go to
12 Glen Rose. She has went to Malvern previously; she's
13 also been in a school in Alabama, when she was with
14 her parents. When she was in Glen Rose, she wasn't
15 happy about school, she really didn't care, she was
16 depressed -- and we've been working on that since we
17 have guardianship of her now. And she's really
18 excited to get involved and start -- have a new fresh
19 start where she gets to make new friends and she
20 doesn't have people that have seen the things that
21 she was living in in the past.

22 I did try to do things the correct way. I
23 believe it was in February when I turned in School
24 Choice forms for the kids. I did get accepted from
25 Glen Rose for all of them, and then I received a

1 letter being denied from Malvern.

2 So I would prefer that my kids go to Glen Rose.
3 I went there, my husband went there, our families
4 went there. My sister, who is disabled, she went
5 there. Even though she can't talk or walk, they got
6 a teacher who was there for her and they let her go
7 to school. My mom worked at the cafeteria at the
8 time. They let Hayley go to school until she was 22,
9 and she got to graduate with that year, and I have a
10 lot of respect for them for that.

11 CHAIRMAN ZOOK: Okay.

12 MS. NORWOOD: That's all. Thank you.

13 CHAIRMAN ZOOK: Is the -- anyone from the Glen
14 Rose District here?

15 MR. HOLICER: Yes.

16 CHAIRMAN ZOOK: Do any of you have questions for
17 the parents before they sit down?

18 Okay. Do you have anything you want to add, Mr.
19 Glen Rose?

20 MS. DEDMAN: Mr. Holicer.

21 CHAIRMAN ZOOK: I know. I was giving him a hard
22 time. If you'll identify yourself?

23 MR. HOLICER: My name is Tim Holicer; I'm
24 Superintendent of Schools at Glen Rose. And I, of
25 course, knew Ms. Tracy and Ms. Hannah as far as that

1 goes. They have worked and attended Glen Rose. I'm
2 not as familiar with the children as this is. I am
3 very aware of the disability that she spoke of and we
4 have plenty of room. We'd love to have them.

5 CHAIRMAN ZOOK: Okay. I commend you for that.

6 Okay. Questions by the Board?

7 Mr. Pekron, I'll start with you.

8 MR. PEKRON: No questions.

9 CHAIRMAN ZOOK: Ms. Newton?

10 MS. NEWTON: None.

11 CHAIRMAN ZOOK: Dr. Hill?

12 DR. HILL: None.

13 CHAIRMAN ZOOK: Ms. Dean?

14 MS. DEAN: No.

15 CHAIRMAN ZOOK: Ms. McFetridge?

16 MS. McFETRIDGE: No.

17 CHAIRMAN ZOOK: Mr. Williamson?

18 MR. WILLIAMSON: No.

19 CHAIRMAN ZOOK: Dr. Moore?

20 DR. MOORE: No.

21 CHAIRMAN ZOOK: Ms. McAdoo?

22 MS. McADOO: No.

23 CHAIRMAN ZOOK: Do I have any more discussion?

24 Or is someone ready for a motion?

25 MS. DEAN: I move to approve the transfer.

1 CHAIRMAN ZOOK: Motion by Ms. Dean to approve
2 the transfer. Second?

3 MS. McFETRIDGE: Second.

4 CHAIRMAN ZOOK: Second by Ms. McFetridge.
5 Roll-call.

6 SECRETARY KEY: Mr. Pekron.

7 MR. PEKRON: Yeah.

8 SECRETARY KEY: Dr. Hill.

9 DR. HILL: Yes.

10 SECRETARY KEY: Mr. Williamson.

11 MR. WILLIAMSON: Yes.

12 SECRETARY KEY: Ms. McFetridge.

13 MS. McFETRIDGE: Yes.

14 SECRETARY KEY: Dr. Moore.

15 DR. MOORE: Yes.

16 SECRETARY KEY: Ms. Newton.

17 MS. NEWTON: Yes.

18 SECRETARY KEY: Ms. Dean.

19 MS. DEAN: Yes.

20 SECRETARY KEY: Seven yeas, zero nays.

21 CHAIRMAN ZOOK: Motion passed. You got your
22 transfer.

23 MS. NORWOOD: Thank you.

24 CHAIRMAN ZOOK: And thank you for adopting. I
25 appreciate that.

1 MS. DEDMAN: Our next family, we have a member
2 joining us by phone. Would it be possible to take a
3 short break to --

4 CHAIRMAN ZOOK: Sure.

5 MS. DEDMAN: -- get her on the phone?

6 CHAIRMAN ZOOK: We're always up for a break.

7 MS. DEDMAN: Thank you.

8 (BREAK: 10:42 - 10:53 A.M.)

9 k) LUKER FAMILY

10 CHAIRMAN ZOOK: Okay. Ms. Luker, Mr. Pekron?

11 MS. LUKER: Yes, ma'am.

12 CHAIRMAN ZOOK: Okay. Everybody ready?

13 All right. Ms. Dedman.

14 MS. DEDMAN: Okay. You have a final --

15 MS. LUKER: Yes.

16 MS. DEDMAN: Your final hearing today is the
17 Luker Family. They've requested a Public School
18 Choice Appeal to transfer from Forrest City School
19 District to Wynne School District. The Luker Family
20 resides in the Forrest City School District. The
21 Luker Family is --

22 MS. LUKER: Yes, ma'am.

23 MS. DEDMAN: So Ms. Luker is on the phone, as
24 you can hear. She's represented by Disability Rights
25 Arkansas, Ms. Reagan Stanford. Wynne School District

1 is represented by Ms. Sharon Streett. And Mr. Brad
2 Beavers is here on behalf of Forrest City School
3 District.

4 All of the testifying parties and all the
5 attorneys will need to be sworn.

6 CHAIRMAN ZOOK: Okay. Would those who will be
7 giving testimony -- including you, Ms. Luker -- would
8 you stand and raise your right hand?

9 MS. LUKER: Yes, ma'am.

10 CHAIRMAN ZOOK: Okay. Do you swear or affirm
11 that the testimony you're about to give shall be the
12 truth, the whole truth and nothing but the truth?

13 (ALL WITNESSES/SPEAKERS ANSWERED AFFIRMATIVELY)

14 CHAIRMAN ZOOK: Thank you.

15 MS. LUKER: Yes, ma'am, I do.

16 CHAIRMAN ZOOK: Okay. In this instance, Ms.
17 Dedman, is it the same procedure where the parent
18 goes first?

19 MS. DEDMAN: (Nodding head up and down.)

20 CHAIRMAN ZOOK: Okay. Or the representative of
21 the parent?

22 MS. DEDMAN: (Nodding head up and down.)

23 CHAIRMAN ZOOK: Okay, if you will identify
24 yourself.

25 MS. STANFORD: Reagan Stanford. I'm with

1 Disability Rights Arkansas, and we're representing
2 the Luker Family in this appeal.

3 Carson Luker is a 9-year old little boy that
4 will be entering the 2nd grade this fall. He has
5 been homeschooled for the past year and was
6 previously enrolled in the Forrest City School
7 District. He applied for a School Choice transfer to
8 the Wynne School District for the 2018-2019 school
9 year and again for the 2019-2020 school year, which
10 we're discussing today. He was rejected both times,
11 with them saying that they would need to hire
12 additional staff to accommodate this student, without
13 further explanation prior to the appeal. He has
14 siblings that have been accepted through the School
15 Choice transfer that are currently attending Wynne
16 Schools.

17 Carson Luker is being impermissibly denied
18 admission to the Wynne School District based on his
19 disability. While districts are indeed not required
20 to hire additional staff to accommodate students
21 applying to their district through School Choice,
22 districts are also not permitted to reject students
23 with disabilities on the mere speculation that
24 additional staff may be required, which they have
25 done here. Wynne's assertion that Carson would

1 require an aid is not supported by his previous IEPs,
2 prior observations, any prior recommendations.
3 Allowing districts to rely solely on speculation,
4 sight unseen, without evaluating a child -- to reject
5 students with disabilities is permitting
6 discrimination based on disability in its clearest
7 form.

8 Wynne asserts that since Carson is not coming
9 from an Arkansas public school with a current IEP the
10 district must consider all possible placement
11 options. By this logic, because any child with a
12 disability could at any time require additional
13 supports, they could reject any child with a
14 disability. While acknowledging that they cannot do
15 so, the District has attempted to unilaterally modify
16 his educational placement. They're relying on their
17 determination based solely on their review of records
18 from Forrest City that Carson would need a one-on-one
19 instruction most, if not all, of the day, which he
20 has never received -- and I guess that has never been
21 recommended. The District admits records provided by
22 Forrest City do not state that additional staff will
23 be needed to accommodate this student and that no
24 additional staff have been requested in the School
25 Choice application. Wynne claims that their process

1 for the LEA supervisor to determine whether
2 additional staff will be required is given the
3 student's placement on his IEP in the resident
4 district. However, like we said, the IEP -- the
5 latest IEP that this student has did not recommend
6 additional staff be required to handle this student.
7 Accommodations and support personnel included only
8 social re-enforcer, structured learning environment,
9 and he was pulled out for resource classes for 300
10 minutes a week.

11 Due to Carson being homeschooled since February
12 2018, Wynne appears to assert his IEP is not
13 instructive and they must assume that he will need
14 the highest possible level of supports needed to
15 succeed. This argument, while faulty, as applied to
16 the 2019-2020 application, does nothing to explain
17 the rejection for the 2018-2019 application when
18 there was still a current IEP in place that did not
19 call for the addition of staff or any kind of one-on-
20 one for this particular student.

21 Recommendations that have been made for this
22 student include a smaller setting or resource class
23 in the afternoon, following a consistent schedule,
24 instituting personal visual schedule, instituting a
25 reward system -- all things that would not require

1 the addition of a one-on-one aid or additional staff
2 to accommodate him. Additionally, it's unclear what,
3 if any, of these were actually implemented in the
4 Forrest City School District. This child was it
5 appears to be neglected in his educational
6 environment in that district; so it's hard to base
7 how he could succeed based on the supports, because I
8 don't think even the IEP, once it was put in place,
9 was fully implemented. So we don't know if he could
10 succeed based on, you know, just what was already in
11 that IEP as proposed.

12 And while we maintain that they cannot
13 unilaterally modify his IEP, the modifications
14 they've proposed were not carefully considered as a
15 state. Ms. Luker went and filed the School Choice
16 application on May 1st at the school district, and
17 she was rejected on May 13, 2019. By their admission
18 they had returned the records to the student's mother
19 and had to re-request them from Forrest City when she
20 applied on May 1st. So during that last month, very
21 busy time of the school year, they very quickly --
22 with only seven business days carefully considered,
23 reviewed hundreds of pages of records, and
24 unilaterally made a new decision that this child
25 would need a one-on-one aid all day in order to

1 succeed in school.

2 The application -- also, the application that
3 she submitted was handwritten; she filled it out at
4 the school. The school then apparently entered that
5 into their online system, and then we received it
6 when we did a FOIA request for all of the
7 applications to kind of see what patterns of --

8 [TIMER BELL RINGS]

9 MS. STANFORD: -- accepting they had done.
10 Okay.

11 CHAIRMAN ZOOK: Oh, I'm sorry; that is the 5
12 minutes. So you will have another opportunity.
13 Okay. You'll get 20 to present your case.

14 MS. STANFORD: Okay.

15 CHAIRMAN ZOOK: I have a question before you sit
16 down. Were the requests for records signed that they
17 had permission to look at these records, the Wynne
18 District records, from the Forrest City District?

19 MS. STANFORD: That I don't -- I believe that
20 it's implicit in there, you know, when they're doing
21 a School Choice application. We haven't looked into
22 that. But we know they did request the records from
23 Forrest City and reviewed them.

24 CHAIRMAN ZOOK: Okay. Thank you.

25 Ms. Dedman, do you know if that's implicit in

1 the application?

2 MS. DEDMAN: It's not implicit to my knowledge.
3 It's certainly not explicit on the application.
4 Usually when you're requesting records, because of
5 the interplay of FERPA you would normally either find
6 a FERPA exception that applies -- and I'm not sure
7 what exception the District might have used in their
8 analysis -- or you would get the prior written
9 consent of the parent.

10 CHAIRMAN ZOOK: Thank you.

11 DR. MOORE: May I ask a question?

12 CHAIRMAN ZOOK: Sure, Dr. Moore.

13 DR. MOORE: It might be appropriate to ask
14 later, but I'll go ahead and ask now. On the
15 application to transfer it asks if the applicant
16 requires special needs or programs. Why is that
17 there?

18 MS. DEDMAN: It is part of the -- so the
19 application itself is currently promulgated as part
20 of the rules. And I suppose it's there to help the
21 District consider the lack of capacity of a program,
22 grade, building, classroom.

23 DR. MOORE: But it doesn't -- does it ask for
24 more information if a parent clicks Yes?

25 MS. DEDMAN: The District might be doing that by

1 phone, but the application itself does not ask for
2 further information.

3 DR. MOORE: Okay.

4 CHAIRMAN ZOOK: It would probably -- if the
5 child was going to need to be in a self-contained, as
6 opposed to resource setting --

7 DR. MOORE: Right.

8 CHAIRMAN ZOOK: -- that may be. But there is
9 nothing on the application that says what kind of
10 special ed. or special needs that the child might
11 have.

12 DR. MOORE: Right. That seems like maybe
13 something we could think about in the future
14 changing.

15 CHAIRMAN ZOOK: Yeah. If it's not addressed in
16 legislation, we may want to revisit that at some
17 point.

18 DR. MOORE: Okay, thank you.

19 CHAIRMAN ZOOK: Let's let the nonresident
20 district -- thank you for your patience and bearing
21 with me. Please identify yourself.

22 MS. STREETT: Sharon Streett, here for the Wynne
23 School District. And good morning. I'll try to be
24 rapid here, but this is convoluted information to
25 give in a short amount of time.

1 Let me answer your FERPA question. It's an
2 exception under FERPA when a child seeks to enroll in
3 another school district. It is an exclusion that you
4 don't have to get parental consent if they're seeking
5 enrollment; that you can transfer records between two
6 school districts where a child is trying to move from
7 one school district to another school district.

8 The first year, Forrest City wasn't rapid about
9 getting the District the records and the parent
10 provided the records. For the second year, Forrest
11 City popped them out real quick, so it wasn't a
12 problem.

13 The problem that I see here is, number one, when
14 you get a student from another school district you do
15 look at your capacity issues that you all have
16 discussed at some length this morning -- but when
17 it's a special education student you do look at
18 placement. Ordinarily, if a student is coming from
19 another school district you're going to implement the
20 placement option that was on that child's IEP coming
21 from that school district, until you have the child
22 for a little bit and figure out -- do some re-
23 evaluation, figure out whether that's going to work
24 or not. But you also get all the records so that you
25 can very quickly see whether or not that is going to

1 work. What you see with this student is last year
2 when he applied he had been in the Forrest City
3 School District. And, you know, I disagree with the
4 parent; the Forrest City School District brought in a
5 consultant and spent three long visitations with that
6 child to try to come up with some ways to deal with
7 it. Before those things could be implemented the
8 child was withdrawn from the Forrest City School
9 District, and then he was homeschooled for the
10 following school year. So when Forrest -- when Wynne
11 got the application this year, they looked back at
12 everything that Forrest City had and then they also
13 considered what had happened to the child since then,
14 including the five residential placements that he's
15 had for three to seven days since he entered school.
16 And what they see -- and, you know, this is what I do
17 for a living, so I know how to evaluate that -- is
18 that this child's problem is not an inherent innate
19 ability to master tasks that are put before him; it's
20 the ability to regulate his emotional state and his
21 behavior. And if you look back in his history, which
22 I provided in part of the exhibit, this is a child
23 who was probably a meth baby. Not all meth babies
24 have emotional dysregulation problems, but a high
25 percentage of them do. Then he's also got some

1 diagnosis, like bipolar, and some other psychological
2 disorders. So his need for assistance in class,
3 based on what they looked at, was the need for him to
4 have one-on-one assistance in order to be successful.
5 And that's what the records from Forrest City
6 demonstrated, that when he is working with a teacher
7 or someone in a one-on-one setting he can function;
8 he can manage his behavior and keep himself under
9 control. When he is loose in a classroom with 20
10 kids, or even with 5 or 6 kids, he loses that ability
11 to hold himself together and manage his behavior.

12 So what we were looking at in bringing him into
13 the Wynne School District, well, we would probably
14 need two things. We're probably going to need the
15 services of a behavioral consultant and we would look
16 probably at a BCBA. And we're probably going to have
17 to put an aid in every classroom he's in, either
18 personal to him or personal to the classroom. I
19 prefer to the classroom because I don't want an aid
20 teaching him all the time. There are times when I
21 want the aid working with the classroom and the
22 individual teacher working with him. You get that
23 better when you attach the aid to the classroom. But
24 what we'd probably do is have one in the classroom
25 he's in and one of those would follow him if he went,

1 for example, from regular class to resource, or
2 resource to regular class -- and we're thinking
3 probably resource class or self-contained classroom
4 going out to a regular class. But that is not a
5 unilateral decision that we can make; that's a
6 decision that will have to be made in an IEP team,
7 with the participation of the parent.

8 So based on the fact that -- you know, it's real
9 easy to set the law up on this and say it doesn't --
10 you know, it doesn't say you have to have one. But
11 for the people that are actually implementing the
12 programs for these children, they're trying to figure
13 out what is it really going to take for us to serve
14 this child and serve this child so that he gets --

15 [TIMER BELL RINGS]

16 MS. STREETT: -- a free, appropriate public
17 education. And that's what they've decided it's
18 going to take for this child.

19 CHAIRMAN ZOOK: Okay. That's the end --

20 MS. STREETT: Can I reserve my time?

21 CHAIRMAN ZOOK: That's the end of your 5
22 minutes, but you will have 20 more.

23 MS. STREETT: Okay, thank you.

24 CHAIRMAN ZOOK: Ms. Dedman, do you need to
25 present further?

1 MS. DEDMAN: We do have the resident district
2 here also.

3 CHAIRMAN ZOOK: Okay.

4 MS. DEDMAN: Mr. Beavers from Forrest City.

5 CHAIRMAN ZOOK: He was sitting way back.

6 I didn't see you.

7 MR. BEAVERS: Good morning.

8 CHAIRMAN ZOOK: Good morning. Will you identify
9 yourself?

10 MR. BEAVERS: I will. I'm Brad Beavers. I
11 represent the Forrest City School District. We are
12 the resident district.

13 And our position here is kind of we have no dog
14 in this fight, with the exception to say that we
15 stand ready to educate any and all students who are
16 in our district and to do whatever is necessary, as
17 we were with this child up to February of 2018. Ms.
18 Streett was very kind to point out to you that at
19 that point we had taken the necessary steps and were
20 preparing to move forward with the plan for this
21 particular child, in fact. So we stand ready to do
22 what is necessary.

23 On the other hand, I think I would be remiss if
24 I did not note that we have faced a number of School
25 Choice applications since School Choice went into

1 effect from a number of districts in our area who
2 have taken School Choice children and a number of
3 applications. And I think that one of the things
4 that you -- we have no empirical evidence, but we
5 have a lot of anecdotal evidence that over that
6 period of time they have systematically rejected SPED
7 Choice applications. And I think that if you begin
8 to look at what they have done is any time that they
9 have needed to increase staffing to accept regular
10 students that has not been a problem; so they have
11 systematically increased their capacity to accept
12 regular students. But when it comes time to -- for a
13 need to increase capacity for SPED students they
14 reject those applications. And so I think one of the
15 questions that might be asked today is how many SPED
16 applications were accepted this year; how many SPED
17 rejections were made. And then maybe over the period
18 of Choice has been in effect how many SPED
19 applications have been accepted, what was your
20 capacity for SPED students when Choice came into
21 effect and what is it now, as opposed to what your
22 capacity for regular students was at that time and
23 what it is now. I don't know that. I don't have the
24 capacity and nor does the Forrest City School
25 District have the desire to undertake studies to that

1 effect. Maybe the Department of Education -- and I
2 think that was a question from above on -- that might
3 have been being asked early on, as to looking at a
4 student, why a district might reach its 3% cap on
5 choice-out. But those are the type things that we
6 have.

7 But as far as where we stand on this particular
8 application, we'll educate any student in our
9 district. Thank you.

10 CHAIRMAN ZOOK: Thank you.

11 Do we go straight to the 20 minutes or do we do
12 questions?

13 MS. DEDMAN: If you have questions based on what
14 you've just heard, you may ask a question. But then
15 we'll move on to the 20 minutes for each party to
16 give their main argument.

17 CHAIRMAN ZOOK: Okay. Mr. Pekron, do you have
18 questions on the presentations to this point?

19 MS. LUKER: Ma'am?

20 CHAIRMAN ZOOK: I'm sorry; there's two people on
21 the phone. I don't know -- did we lose Mr. Pekron in
22 the process of picking up Ms. Luker?

23 MR. PEKRON: Oh, I'm sorry. I had mine on mute.
24 No questions at this time.

25 CHAIRMAN ZOOK: Okay. Ms. Newton?

1 MS. NEWTON: I'm going to wait.

2 CHAIRMAN ZOOK: Okay. Dr. Hill? Ms. Dean? Ms.
3 McFetridge? Mr. Williamson?

4 MR. WILLIAMSON: Not right now.

5 CHAIRMAN ZOOK: Dr. Moore? Ms. McAdoo?

6 All right. Then we will do -- start with the
7 parent's attorney and you have 20 minutes.

8 MS. STANFORD: Okay. I'd like to first respond
9 --

10 CHAIRMAN ZOOK: Pull it up a little bit. Yes.
11 And re-identify yourself.

12 MS. STANFORD: I'm Reagan Stanford; I'm with
13 Disability Rights, representing the Luker Family.

14 I want to respond to a few things that the --
15 from the Wynne School District. They did mention
16 that he has been in five residential placements since
17 being pulled out. Carson has had some residential
18 placements, but the last one was in May of 2017. He
19 was having, you know, a lot of medication changes and
20 things like that, that have been worked out it
21 appears at this point. And also the consultant that
22 came in -- and I would hope that the Board would look
23 at that consultant, when she went in and actually
24 observed and made recommendations. Unlike the
25 recommendations that the Wynne School District has

1 made for what he will need to perform well in the
2 classroom, this woman was with him for three full
3 days in the classroom and made recommendations, none
4 of which required the addition of an aid or any kind
5 of staff to support his behaviors -- and those are
6 included in the packet, that information. And those
7 recommendations were made in April of 2017; he did
8 not leave the Forrest City School District until
9 February of 2018. So there was -- he was left there
10 in time to implement those recommendations from that
11 observer.

12 Also just, you know, when we were speaking about
13 the high percentage of meth babies that have mood
14 dysregulation, I understand that the other party --
15 you know, she's an attorney representing her clients,
16 not a child psychologist. And so some of, you know,
17 the information about the behaviors or what would be
18 necessary to care of these kids in the classroom may
19 have been overstated or misstated.

20 Also as far as the Forrest City School District
21 mentioning, we did FOIA all the applications for and
22 rejections for School Choice for the past two years
23 from the Wynne School District. I'm not sure that it
24 was fully complied with, but we do know that they
25 have represented to this committee via their response

1 that they accepted all students with special needs
2 who applied last school year. We know that to not be
3 true because Carson applied last year and was
4 rejected; so there was at least one child with
5 special needs that was rejected last year.

6 And then I did just want to look at the -- how
7 they're making this determination that they need
8 these extra supports. I guess if you've looked at
9 the documentation, there's no actual documentation
10 that he would need the addition of staff in the
11 classroom. And what we did see is the mother wrote
12 in the handwritten -- and just like you said, there's
13 only a box to check to say that yes this child has --
14 may need -- have special needs in the classroom. And
15 so I would like to ask the Wynne School District, or
16 hopefully you guys can, who then processed that and
17 put it into the computer application. And on the --
18 in the computer they added that -- under what type of
19 special needs or programs does this applicant
20 require, they put physical, speech, OT, self-
21 contained classroom aid. There is nothing to
22 substantiate any of those, except for speech. He did
23 -- he is receiving speech therapy. So I'm not sure
24 who inputted that and if their analysis was based on
25 that faulty information that was inputted into this

1 system.

2 Also there's a handwritten note on that
3 application that states, "We are at capacity with
4 current numbers, would require additional staff."
5 But Wynne has maintained throughout this process that
6 this is not a capacity argument; it's an argument
7 that this individual student would require the
8 addition of staff. So it is I think noteworthy that
9 at some point this was a capacity argument that
10 turned into this particular kid would need so much
11 support we couldn't support him in our school.

12 Also just to speak to his behavior, it appears
13 that they relied on detailed behavioral descriptions,
14 as they called them in their response, that were
15 recorded by his teachers. But if you actually look
16 at District's Exhibits 50 through 51, that is just an
17 email that is describing one day, on August 31, 2016,
18 and his behaviors on that one particular day, and
19 then another email from his teacher saying what she
20 has done in the classroom. Like I said, all of this
21 was from August and September of 2016. His IEP
22 wasn't even implemented until December of 2016. So
23 at the time of those behaviors that they're basing
24 this information that he may need one-on-one supports
25 he was not receiving any special services from the

1 Forrest City School District. His IEP had not been
2 implemented.

3 And then also we had alluded to the conclusions
4 regarding the educational consultant's observations,
5 that what success he experienced at school occurred
6 when he was working one-on-one with an adult.

7 Certainly, sure, when he was working one-on-one with
8 an adult he did better; I think most children would.

9 But that does not mean that he was not capable of
10 being in the classroom when he was not with a one-on-
11 one adult. And like I said, I would ask that you
12 please look at those observations because he does
13 make a lot of really good observations and kind of
14 highlights the kind of chaotic nature of his
15 education at that time when they were transitioning
16 into kind of figuring out a set schedule for resource
17 classes and kind of even simple things like a visual
18 timer, you know, giving him a calendar and behavioral
19 contracts, things like that, that hadn't been fully
20 implemented yet. So it's a great leap to jump from
21 implementing those recommendations that that lady
22 that observed him for three days made to he would
23 require one-on-one supports in the classroom.

24 I think that's all that we have.

25 CHAIRMAN ZOOK: Does anyone have any questions?

1 Is that the end of your 20-minute part? I know
2 it's not the end of your 20 minutes, but is it the
3 end of your --

4 MS. STANFORD: (Nodding head up and down.)

5 CHAIRMAN ZOOK: Does anybody have any questions
6 for her before we hear from the nonresident district?

7 Okay, thank you.

8 DR. MOORE: I have a question.

9 CHAIRMAN ZOOK: Okay, Dr. Moore.

10 MS. LUKER: Okay.

11 DR. MOORE: How many siblings --

12 MS. LUKER: Am I allowed to speak?

13 CHAIRMAN ZOOK: Wait just a minute, and then
14 we'll call on you.

15 DR. MOORE: How many siblings?

16 MS. STANFORD: Two.

17 DR. MOORE: Two. And are they already attending
18 the Wynne School District?

19 MS. LUKER: Yes.

20 DR. MOORE: They've been attending for a couple
21 of years.

22 DR. MOORE: Okay. Thank you.

23 CHAIRMAN ZOOK: Okay. You do have time left.
24 So if Ms. Luker has something she would like to add,
25 then that would be fine. Ms. Luker, you can go

1 ahead. If you'll speak --

2 MS. LUKER: Yes.

3 CHAIRMAN ZOOK: -- loudly and clearly.

4 MS. LUKER: Okay. There are cases where he had
5 Ms. Lindsey. Unfortunately, the man that -- he was
6 going around trying to get him to write down bad
7 stuff about Carson. Well, first, this man has passed
8 away by now. He was a very young man and he was
9 awesome with Carson. And there is a teacher in Wynne
10 (inaudible, phone cutting out) Mr. Williams, which is
11 his name, and he was awesome with Carson. And when
12 Ms. Lindsey got where she couldn't handle Carson,
13 well, then she would send (inaudible) where Mr.
14 Murphy was, the man that passed away and -- or Mr.
15 Williams, his kindergarten teacher. And he was very
16 mean to Carson. Now when he was in the resource
17 class, which was for I guess till about 11:00,
18 through lunch, he did fine with the resource class
19 teacher. Her name was Ms. Banks. She was an awesome
20 teacher, and he did very well with her. But when he
21 went back to his regular classroom he was -- had him
22 sit by -- well, it was -- she was called a Granny
23 Lady. And I'm sorry, but the kids that's got
24 problems like my child does -- and yes, to the court,
25 I'm sorry, but my child does have meth problems. But

1 he didn't have the right medicine that he does now.
2 He's a much better child. And, yes, he has been sent
3 away four or five times and started kindergarten on
4 that. As far as getting (inaudible) they didn't send
5 just his records; they sent all the vile language in
6 here that is spoken of. If they would've did that
7 for every child that was in the school, the school
8 would be shutdown by now. But my son is -- he's a
9 much better child than what he was. And as far as
10 when I took him out of Forrest City, he has changed a
11 lot. So, and he is ready to go to school and he
12 doesn't want to go back to Forrest City. That's
13 where he had all this trouble at. And they wanted
14 him -- they had him already nailed as a troubled
15 child and, you know, he's a much better child now.
16 And I do believe that if we could get him in Wynne --
17 which Wynne classes has the classes for a resource
18 child like my son. And that was my -- and that's my
19 issue with Wynne and that's why I believe Wynne would
20 -- could help my child if they would just give him a
21 chance.

22 CHAIRMAN ZOOK: Okay, thank you.

23 MS. LUKER: And I talked to my neighbors and
24 they told me, yes, they do have them, and Forrest
25 City does not. The assistant principal and the

1 principal herself, Ms. Sharon Council, and Ms.
2 Williams, they said, "We just don't have them." They
3 finally made up a resource class for like five or six
4 kids that needed a resource class. So when he was in
5 there he did okay. But when he had to go back to the
6 classroom and start to sit there like an angel for
7 the rest of the day by a teacher, and do nothing but
8 looked at the walls or the chalkboard, yes, he did
9 get very bored and out of control. I don't lie for
10 my child; he got out of control.

11 CHAIRMAN ZOOK: Okay, thank you very much. And
12 thank you for taking this child into your home.

13 I guess one of the questions I have for you, Ms.
14 Luker, are you aware that if your child under School
15 Choice attends a different district that
16 transportation would be the responsibility of the
17 parent?

18 MS. LUKER: Yes, I already have my other child
19 -- children that I'm raising. My daughter is
20 deceased, and so I have six grandkids that I
21 transport already. I don't transport them all, but
22 next year I'll be doing -- the twins will go ride
23 along with him. But I already have two that's
24 already in Wynne, and Carson will be three if I can
25 get him in Wynne. And I planned on doing the twins

1 in Wynne because Forrest City is down to zero; they
2 are not a good choice in schools. And I don't want
3 none of my kids never back in Forrest City school.
4 So, yes, ma'am, I do -- I take them to every morning
5 to the bus to go to Wynne school and I'm there every
6 afternoon to pick them up.

7 CHAIRMAN ZOOK: Okay. I just wanted -- yes, I
8 wanted to be sure.

9 MS. LUKER: Yes, ma'am, I know that's my
10 responsibility.

11 CHAIRMAN ZOOK: Okay, thank you so much. Thank
12 you.

13 Yes.

14 MS. STANFORD: I just want to be clear -- I
15 think when she was first talking -- so one of the
16 recommendations has been that he be placed with a
17 male teacher, and there is some of the observations
18 -- so like she was saying her kid's kindergarten
19 teacher, he only had one behavioral incident that was
20 documented, and kindergarten was a male teacher. He
21 was -- they put him -- he was assessed frequently in
22 Forrest City, and that was a male teacher that he had
23 a good rapport with. So he does respond to, you
24 know, certain types of teachers -- not a one-on-one
25 necessarily, but to certain teachers, you know, that

1 did take an interest in him and, you know, would show
2 him -- give him that kind of support. So I think
3 that's when she was kind of listing out some of his
4 teachers at the beginning, that he has been able to
5 build a rapport with some teachers and not with
6 others --

7 MS. LUKER: Yeah.

8 MS. STANFORD: -- like most kids.

9 MS. LUKER: He was -- he's done real well with
10 male teachers.

11 CHAIRMAN ZOOK: Okay, thank you.

12 Do any of --

13 MS. LUKER: And his dad now is in the nursing
14 home with Alzheimer's. It's just me raising, you
15 know, my kids, my grandchildren and him now. And,
16 you know, he's never -- he just responds to males.
17 But, you know, that is one -- she is right; that is
18 one thing. And I didn't mean to interrupt you, Ms.
19 Reagan; I'm sorry.

20 CHAIRMAN ZOOK: Oh, no, that's perfectly fine.
21 You're the best advocate for your child. That's
22 absolutely fine.

23 MS. LUKER: And he does really respond to -- he
24 does respond to male teachers --

25 CHAIRMAN ZOOK: Okay, thank you.

1 MS. LUKER: -- if they're polite to him. I
2 mean, if he feels good with him, then he's usually
3 very polite with them and they get more out of him.

4 CHAIRMAN ZOOK: Okay. Great. Thank you.

5 Do any of the other board members have any
6 questions for the attorney or the mom before we go to
7 the nonresident district?

8 Okay.

9 MS. LUKER: No.

10 CHAIRMAN ZOOK: Okay, thank you. Now the
11 nonresident district --

12 MS. LUKER: I'm sorry if it ain't worked out.

13 CHAIRMAN ZOOK: Okay, thank you.

14 MS. LUKER: Thank y'all for taking the time out
15 to work with my child.

16 CHAIRMAN ZOOK: Yes. And now we're going to
17 hear from the Wynne District.

18 MS. STREETT: Okay. First of all, I want to
19 respond to what Mr. -- what Brad said earlier about
20 how districts treat kids with disabilities. And let
21 me tell you, disability is kind of my area of
22 interest in working with school districts. I work
23 with about 50 school districts and you don't get to
24 work with me very long if you discriminate against
25 kids with disabilities. And I can tell you that

1 that's not true for either Wynne or Forrest City,
2 because I have worked with them some also.

3 In asking them, when I first agreed to represent
4 them on this, one of my first questions was what do
5 you do about -- what do your applications look like.
6 And here's what I was told, "We don't turn anybody
7 away unless we have to hire additional staff, whether
8 they are regular ed. or special ed." And then I had
9 them run the numbers for me for the last few years so
10 that I can verify that they're not turning anybody
11 away based on the fact that they have a disability.
12 It's strictly based on whether or not they're going
13 to have to hire additional staff.

14 Now then, the reason that hasn't been much of a
15 problem for regular ed. kids is they've been able to
16 absorb everybody. For example, last year they got --
17 20 kids left the district, 40 kids came into the
18 district under School Choice. They were able to
19 absorb all those kids, so they didn't have to hire
20 additional staff for any regular ed. kids. Only one
21 kid last year -- child, excuse me -- I use that term
22 and I probably should use child or student -- was
23 going to require an aid or additional staffing, and
24 it was this child. So, and I didn't put his -- I
25 didn't leave him as the exception in my brief; I

1 apologize for that. This year they took all of the
2 special ed. kids that didn't require additional
3 staffing. So they're not discriminating based on
4 disability; they're discriminating only on the basis
5 of are we going to have to hire additional staff, and
6 that is true for regular ed. kids just as it is true
7 for special ed. kids.

8 Now then, I understand -- first of all, let me
9 defend Forrest City here a little bit. Forrest City
10 does an adequate job -- more than adequate job with
11 kids with disabilities, and the fact that they
12 brought in a consultant to work with this kid is some
13 evidence of that.

14 Now then, I think that when you analyze the
15 records -- and that's why I tried to provide you as
16 much records as I do -- what -- you have to go
17 through and glean because we don't have very many --
18 much information about this kid. We have no
19 information about him for at least a year, except
20 that he has been homeschooled. And I'm going to
21 presume that a homeschool situation that he has been
22 at least on one-to-one or one to very small numbers
23 of students if he's been homeschooled. So I've got a
24 child that's coming from that setting back into
25 public school. I know what his problems are in

1 looking back at this other data, and I can see where
2 he has been successful. You know, he was not
3 successful on his IEP in Forrest City, and so I know
4 that whatever they had in place at that time was not
5 producing what they would've wanted it to produce.
6 So in looking at this I have to see what works. And
7 when you go through the records and read the
8 anecdotes from teachers and from the consultant what
9 you see works is when someone is working with him
10 one-on-one. So if he were to come to our district we
11 would want him to be successful. And our obligation
12 under IDEA, the Individuals with Disabilities
13 Education Act, requires us to provide him with a free
14 appropriate public education; so we would have to see
15 that he makes progress. We think the way to do that
16 would be to put him in a situation where he has
17 pretty much one-on-one instruction all day and he has
18 the services of a behavior consultant, which we could
19 contract with for that service, and we would use a
20 BCBA to come in and train the teachers in how to work
21 with him. What we would hope to move to over a
22 period of time is where he could work some without
23 that one-on-one attention, but we don't in any way
24 think that we're going to be able to start there.
25 You always want to get kids to where they can work

1 independently, but you work on it and as it improves
2 you try to fade back some.

3 So we're pretty confident about what this child
4 is going to need regardless of what setting he's in.
5 If he's in the regular ed. class, he's sure going to
6 need an aid in there. If he goes out to resource
7 room, because of what we know is in the resource room
8 now, what we already know, the kids who are there, we
9 know we're going to need to add an aid in there. If
10 he goes to the self-contained classroom, which
11 already has one aid, we know we're going to have to
12 add an aid in there because of the students who are
13 already in there and the severity of the needs that
14 they already have.

15 So we haven't just analyzed this willy-nilly.
16 We've actually looked at what do these classes look
17 like, who are the children who are already in these
18 classes, what are the teachers going to have to have.
19 We'd be at -- what did you say -- 89% capacity
20 anyway, but the basis on which we're asking for this
21 is that we're going to have to add staff. And I
22 would feel so much better about it if I felt like
23 Forrest City had been given the opportunity to come
24 to these conclusions with this student also and work
25 with him, because my experience with Forrest City is

1 that they would have -- that, you know, they go
2 through the steps. You try the least restrictive
3 thing first and then you move on up the ladder as you
4 need to, and I think had they been given the full
5 time with this student that mom might feel
6 differently about needing to move from Forrest City.

7 CHAIRMAN ZOOK: Typically when a student comes
8 in you don't put them in the most restrictive; you
9 start them in the least restrictive and move --

10 MS. STRETT: Least restrictive. And that's --

11 CHAIRMAN ZOOK: And since he hasn't been in a
12 traditional public school at this point that's hard
13 to do.

14 MS. STRETT: It's hard. I started to say we're
15 -- and, you know, when you're taking a child out of
16 homeschool that is a very difficult transition for
17 any child to move from homeschool back to a regular
18 public school. And I sure wouldn't drop this kid
19 into the regular milieu and expect him to do well.

20 Can I answer questions?

21 CHAIRMAN ZOOK: Mr. Pekron, do you have a
22 question?

23 MR. PEKRON: Not at this time.

24 CHAIRMAN ZOOK: Ms. McAdoo? Dr. Moore?

25 DR. MOORE: Yes. I know this is difficult all

1 around but -- so Wynne School District has not been
2 in any contact with the student; is that correct?

3 MS. STREETT: With the actual student --

4 DR. MOORE: Yes.

5 MS. STREETT: -- no. We've gotten all our
6 information from the parent or from the Forrest City
7 School District.

8 DR. MOORE: Okay.

9 MS. STREETT: And I had a lengthy conversation
10 with the Forrest City School District special ed.
11 supervisor, you know, about what the potential needs
12 for this child are.

13 DR. MOORE: And so at that point in time was the
14 Forrest City special ed. coordinator -- did they tell
15 you that the child needed one-to-one?

16 MS. STREETT: No. But they were open to
17 admitting that what was being tried wasn't working --

18 DR. MOORE: Okay.

19 MS. STREETT: -- you know, that they were going
20 to have to go somewhere else with it. And then --
21 and, of course -- she said of course then the child
22 gets pulled out.

23 DR. MOORE: Right.

24 MS. STREETT: And the information I was given is
25 that he was pulled out twice. He was pulled out

1 right after that consultant came, and they didn't
2 have him for the rest of that year. And then he
3 started in fall of '18 and went for a little while.

4 Is that right?

5 MS. LUKER: No, I didn't pull him out twice.

6 MS. STREETT: Okay. I'm just telling you I got
7 different information than what they've given here.

8 DR. MOORE: Okay, but -- so at this point in
9 time you can say that the reason why Wynne overturned
10 the student is because of capacity to hire an aid or
11 because of capacity --

12 MS. STREETT: Because -- it's strictly if we
13 have to hire additional staff.

14 DR. MOORE: Okay. Not capacity in the special
15 ed. --

16 MS. STREETT: Not capacity in a special
17 education classroom, unless it means we're going to
18 have to hire staff. And when I say capacity in the
19 special ed. classroom, I'm talking about Arkansas
20 Department of Education limitations on how many
21 students and teachers you can have.

22 DR. MOORE: Right.

23 MS. STREETT: You know, a teacher can only have
24 say 10 students in a particular special ed. class;
25 I'm not talking about that kind of capacity. I'm

1 talking about are we going to have to add a teacher,
2 are we going to have to add an aid.

3 DR. MOORE: Okay. Okay, thank you.

4 CHAIRMAN ZOOK: Mr. Williamson?

5 MR. WILLIAMSON: I can't think of anything right
6 now.

7 CHAIRMAN ZOOK: Ms. McFetridge?

8 MS. McFETRIDGE: I'm good right now.

9 CHAIRMAN ZOOK: Ms. Dean? Dr. Hill? Ms.
10 Newton?

11 MS. NEWTON: I don't know if mine is a question,
12 but it's thinking out-loud as a teacher and maybe get
13 some other comments from other teachers at the -- on
14 the Board.

15 Whenever I got a student who had problems or
16 whatever, I tried -- always tried real hard not to
17 pre-judge and have low expectations. I always wanted
18 high -- I always set my expectations high to try to
19 get the best I could ever get out of every student.
20 And it really seems like to me, without ever meeting
21 this student at all, without ever having any contact
22 with this child, that we are setting expectations low
23 on what he is going to be able to do. And if the
24 consultant has not recommended a staff or an aid, I
25 just -- I'm just thinking that we are not giving this

1 child the benefit of a doubt that something -- that
2 he may be able to rise up to those expectations if we
3 set them high enough. And so --

4 MS. STREETT: Well, the only --

5 MS. NEWTON: -- that's my thought process there.

6 MS. STREETT: The only thing I would comment to
7 that is everything -- all of the evidence that we do
8 have runs the other direction. And let me tell you,
9 in looking at this child I think this child has
10 significant capacity and I think if we could give him
11 the support he needed -- and I'm thinking the one-on-
12 one support, because I'm not thinking that he's going
13 to be in a self-contained classroom with children who
14 don't have grade level expectations. I'm thinking
15 he's going to meet grade level -- be able to meet
16 grade level expectations if we can provide the
17 behavioral support for him to be able to regulate his
18 emotional status. And I do believe that -- based on
19 what I read I do believe that is part of his
20 disability. The emotional dysregulation is not a
21 choice he's making; it's part of the disability.
22 And, you know, when you look at -- I don't think it's
23 saying he's -- you know, I don't think it's lowering
24 expectations to think he may need the support of an
25 aid. I think that's just a classroom support, what

1 special ed. says in the least restrictive setting he
2 can be in with the accompaniment of aids that will
3 support him. And so I think that's what it's going
4 to take. And I'm going to tell you that this LEA
5 supervisor, who's here with me today, she does this
6 analysis because she has a budget, she's got people,
7 she's got to come up with kids that have to be
8 placed, teachers that have to be placed, so that when
9 we start August 19th, whenever it is, we have a good
10 idea of what we're going to need to serve the kids
11 that we have and special ed. kids have the right to
12 that on day-one, not day 21.

13 Other questions?

14 MS. McFETRIDGE: I have a question for --

15 CHAIRMAN ZOOK: Ms. McFetridge.

16 MS. McFETRIDGE: -- Secretary Key. What is the
17 funding difference with a special needs child versus
18 a regular education child?

19 MS. STREETT: Well, there's a -- here's an easy
20 question, Commissioner. I'm glad she asked you.

21 SECRETARY KEY: Thank you, Ms. Streett.

22 Well, I can tell you that in the formula, the
23 foundation formula, 2.9 teachers are allocated in
24 funding to go with that within the matrix. But then
25 you also have funding, as you all a couple of months

1 ago had the consideration of the rules for
2 catastrophic special ed., which those are students
3 where the cost of meeting those educational needs
4 goes above and beyond the typical and routine cost
5 for special ed.

6 So really I don't think you can say there is a
7 standard cost. Now we could probably run averages to
8 see, but that's going to vary from district to
9 district and year to year, depending on the status of
10 those students or the individual needs of those
11 students.

12 MS. McFETRIDGE: I don't think I answered -- or
13 asked the question properly maybe.

14 SECRETARY KEY: Okay.

15 MS. McFETRIDGE: I know the State funds our
16 special education children differently than regular
17 education students. And we also are allowed federal
18 funds --

19 SECRETARY KEY: Well --

20 MS. McFETRIDGE: -- as well.

21 SECRETARY KEY: Correct. The federal funds are
22 -- I mean, the State doesn't fund them differently,
23 because the cost of the foundation cost of educating
24 all students is captured in that foundation funding
25 matrix. But there are the Title 6-B funds, federal

1 funds that go with that, and again that's allocated
2 by -- yeah, by formula. Thank you for the -- I knew
3 there was a word. There's a formulaic methodology
4 there. And then the same with the extra funds for
5 catastrophic needs that come and are reimbursed to
6 districts based on what they submit to the
7 Department.

8 MS. McFETRIDGE: Thank you.

9 MS. STREETT: Well, one other point I would make
10 is that this is not a situation where we get to -- I
11 mean, the law says we don't have to take a child if
12 we have to add staff. So for me that's kind of a
13 bottom-line given. You know, it's not a
14 discretionary thing; it's not a let's-wool-it-around-
15 and-think-about-it thing. It's part of the statute.
16 And, you know, if we're overriding that then we need
17 to know that that's no longer good law, because
18 that's the -- that's the only basis on which we're
19 not taking kids. We took 60 this year and six of
20 them were special ed. kids. The only ones we didn't
21 take were if -- were the two that we'd have to add
22 another staff member for. And let me tell you, in
23 the special ed. field adding another staff member is
24 not the same as adding one in general ed. just
25 because of the shortage that we have in both special

1 ed. aids and special ed. teachers. If you've got one
2 that's looking for a job, send me their name.

3 Any other questions?

4 CHAIRMAN ZOOK: Mr. Pekron, did you have another
5 -- any questions?

6 MS. LUKER: Well, I think y'all have done made
7 up your mind already that you're not going to accept
8 Carson.

9 CHAIRMAN ZOOK: No, ma'am.

10 MR. PEKRON: I'm sorry.

11 CHAIRMAN ZOOK: We're still discussing and
12 asking questions. I'm sorry if -- that -- if you
13 were given that impression.

14 I'm sorry, Mr. Pekron, I didn't hear you.

15 MR. PEKRON: I'm sorry, I was on mute again. I
16 don't have any questions.

17 CHAIRMAN ZOOK: Okay, thank you.

18 Any more questions?

19 Dr. Hill.

20 DR. HILL: I was wondering -- you're the expert.
21 We always defer to you when it comes down to this;
22 this is your level of expertise. And I really want
23 to know -- I know you're the Chair, but what's your
24 perception based on what you've heard? Because
25 you've studied this more so; you're more astute than

1 what we are.

2 CHAIRMAN ZOOK: My experience is that the best
3 way to make decisions about each child as an
4 individual is actually working with each child as an
5 individual. I adhere to what Ms. Newton is saying
6 about never lowering expectations, but I also know
7 that making decisions based on paperwork is not
8 always true. Sometimes they need more, sometimes
9 they need less. A year or year-and-a-half of growth
10 with a child that has a disability of any kind -- and
11 this one is other health impaired -- is -- you know,
12 your -- and the district where I supervised a
13 program, we erred on the side of the child. And then
14 if things didn't progress or if it became evident
15 that they needed more or less than what we thought on
16 the beginning, then we adjusted based on that. Does
17 that help?

18 DR. HILL: Yeah.

19 MS. STREETT: And I would say one other thing --
20 the one thing this child does not need is to be back
21 in school without what he needs or we are liable to
22 lose him to public education all together.

23 DR. MOORE: I have some questions for Jennifer.

24 CHAIRMAN ZOOK: Dr. Moore has a question.

25 DR. MOORE: For Jennifer.

1 CHAIRMAN ZOOK: Okay.

2 MS. STRETT: I'm going to sit down unless you

3 --

4 CHAIRMAN ZOOK: I think your time is up.

5 MS. STRETT: Okay.

6 CHAIRMAN ZOOK: We'll ask a question and then
7 we'll talk to the resident district.

8 DR. MOORE: Okay. Thank you. So I think I'm --
9 there's two points of decision here. One is whether
10 it is on the student's IEP that they need a one-to-
11 one. But I think the thing that's troubling me is
12 that in a different situation if the child -- if it
13 was on the IEP that they needed a one-to-one, and
14 that child chose School Choice, they would always be
15 denied because the law says if you need to hire
16 additional staff. Is that correct?

17 MS. DEDMAN: Well --

18 MS. STRETT: I would like to answer that
19 question in relation to this specific one, if I have
20 an opportunity.

21 CHAIRMAN ZOOK: Okay. If she addresses that to
22 you, then we will.

23 DR. MOORE: I mean, you know, if that was on the
24 IEP --

25 MS. DEDMAN: Ms. Strett I think referenced the

1 staff. What we're looking at there is 6-18-1903.
2 There is the -- I think it's Section (b) that says
3 that -- you know what, instead of quoting it --

4 DR. MOORE: I've got it here. It's to add
5 teachers, staff or classrooms.

6 CHAIRMAN ZOOK: We're less worried about time
7 and more worried about accuracy.

8 MS. DEDMAN: Absolutely, right. It says this
9 subchapter does not require a school district to add
10 teachers, staff or classrooms in any way to exceed
11 the requirements and standards established by
12 existing law. And that's at subsection (c), not (b).
13 The question here is if we are looking at an aid is
14 that a requirement to add staff, is essentially -- is
15 essentially what we're asking.

16 DR. MOORE: Yeah. And so that is -- I mean, if
17 it would -- in this it's not. But if it was on a
18 child's IEP that they had to have an aid a district
19 could always reject it, and we can't expect you to do
20 that.

21 MS. STREETT: I really need to answer that, if I
22 could be asked.

23 MS. DEDMAN: It's up to the Board. The Board
24 can always consider these things as they come to
25 them. It's up to the Board essentially what you do

1 during an appeal.

2 DR. MOORE: Okay. Thank you. Sorry.

3 MS. STRETT: Someone please ask me that
4 question.

5 DR. MOORE: Yeah, sure. I mean, you may answer.

6 MS. STRETT: I'd like to say that how that
7 would not be the case. For example, we had an aid
8 accompanying a child in high school. That child
9 graduated last year, so we have an aid without an
10 assignment.

11 DR. MOORE: Okay.

12 MS. STRETT: That aid gets assigned to the
13 child.

14 DR. MOORE: Okay.

15 MS. STRETT: So if we had added an aid who we
16 could move around and put with that child, then
17 they'd get in --

18 DR. MOORE: Okay.

19 MS. STRETT: -- because we wouldn't have had to
20 add staff.

21 DR. MOORE: Okay.

22 MS. STRETT: And that happens all the time
23 because kids with disabilities move out of the
24 district, kids graduate, a lot of things happen that
25 leaves us with extra aids.

1 DR. MOORE: Okay. And just --

2 MS. STRETT: Just not this time.

3 DR. MOORE: -- to be correct, typically if a
4 student has an IEP it's going to say they need that
5 classroom aid and --

6 MS. STRETT: Not necessarily.

7 CHAIRMAN ZOOK: Dr. Moore, I'm sorry to
8 interrupt you. Would you --

9 DR. MOORE: Yes.

10 CHAIRMAN ZOOK: -- speak more clearly?

11 DR. MOORE: Would a child need to -- would it
12 say on the IEP that the child needed the one-to-one?

13 MS. STRETT: Sometimes it does, but sometimes
14 it does not, especially now that we've gotten to the
15 place where we add aids to classroom rather than
16 giving the child a specific aid. But, yes, sometimes
17 we get an application that says this child will need
18 an aid. Then the question is have we got an aid we
19 can put with that child. If we do, then they don't
20 get rejected.

21 DR. MOORE: Okay. When a student transfers into
22 a district, do they receive a new IEP or is it always
23 carried --

24 MS. STRETT: If it's coming directly from a
25 district, we are to implement the IEP to the extent

1 that we can until we do our own evaluation and come
2 up with our own programming. And there's a 60-day --
3 90-day total limit to get that done. This child came
4 in without an IEP because he's been out of school for
5 a year.

6 DR. MOORE: Right.

7 MS. STRETT: So we don't have any --

8 DR. MOORE: So whichever district, wherever this
9 student attends --

10 MS. STRETT: Wherever he attends he will go in,
11 there will be a 90-day evaluation period, and then
12 all of this will be in place. But with this child,
13 if he came into our district we would temporarily
14 identify him until we got all that done because we
15 know he's going to need some assistance.

16 DR. MOORE: Okay, thank you.

17 MS. NEWTON: Ms. Zook, could we have somebody
18 from Disability Rights kind of speak to that same
19 question that we were talking about? Because I think
20 they have more of a statewide view. Would that be
21 okay?

22 CHAIRMAN ZOOK: Absolutely. Do you want to hear
23 from the resident district first or do you want to
24 hear from them first while we're on that topic?

25 MS. NEWTON: While we're talking on that topic.

1 CHAIRMAN ZOOK: Okay. You may come forward. I
2 think she said Disability Rights.

3 MS. STANFORD: Yeah, I guess ours -- because it
4 seems to be what they're saying is they would provide
5 --

6 CHAIRMAN ZOOK: Identify yourself and pull up
7 your microphone.

8 MS. STANFORD: Oh, sorry.

9 CHAIRMAN ZOOK: There you go.

10 MS. STANFORD: I am Reagan Stanford with
11 Disability Rights.

12 It appears that what they're saying is they
13 would provide a one-on-one aid if it was available,
14 even if it's not on the student's IEP. That's not
15 something that we traditionally see. Students --
16 districts are not going out of their way to provide
17 one-on-one aids for students. And so I would be
18 interested to know how many students with behavioral
19 issues currently attending Wynne have one-on-one,
20 since they have decided that this child needs a one-
21 on-one. I can assure -- I feel confident that if
22 this situation was turned and we were arguing that
23 the child needed a one-on-one that was already in
24 their school district strictly for behavioral issues
25 we would be at a different hearing. But that's the

1 presumption that they've made in this case, but not
2 what we typically see in districts.

3 MS. NEWTON: I guess my question was: have you
4 seen other students with IEPs denied because they
5 would have to have an aid? I mean, have you had any
6 cases like that come before you?

7 MS. STANFORD: For School Choice?

8 MS. NEWTON: Yes.

9 MS. STANFORD: We have not. But I think that --
10 I mean if their IEP specifically said they had to
11 have a one-on-one aid, so that would require a school
12 district to hire, you know, additional staff. I mean
13 I think we'd take issue with that for particular
14 reasons, but would, you know, concede that that would
15 be the addition of staff and under the law as it's
16 written they would not be required to accept that
17 kid. But that's not the case here. They are
18 completely speculating that this child would need
19 additional staff.

20 CHAIRMAN ZOOK: Was this child in virtual school
21 or homeschool?

22 MS. STANFORD: He was in homeschool.

23 CHAIRMAN ZOOK: Thank you.

24 All right. Resident district -- there you come.

25 MR. BEAVERS: I'm kind of at a loss as to where

1 to start because I've been shot-gunned here with
2 things to -- that I want to speak to first. So let
3 me answer the real easy one first.

4 According to our records -- and by the way, I'm
5 Brad Beavers from Forrest City School District. Our
6 records, the student was never back enrolled in our
7 district after February of 2018. I think that's a
8 very minor point that was raised as to whether he
9 came back in the fall of 2018 or not. But we don't
10 show that he enrolled.

11 As to the issue of -- to speak to Ms. Newton's
12 point of expecting the worst -- and I mean I think
13 that that in our position would be that the last IEP
14 does not call for a one-on-one aid. We've heard some
15 statements from the parent as to improvement, but
16 we've heard some speculative reviews that are very
17 educated speculation that it would require an aid.
18 But nevertheless, it is just review and it's of
19 documents which are, again, from 2017. So we don't
20 really know whether -- basically what we've heard is
21 we don't know if we're going to need an aid; but
22 because we might need an aid, then we don't have the
23 capacity.

24 Now as to a statement that I made, I want it
25 clear that what I said if anecdotally we have heard

1 that special ed. applications are being rejected.
2 Now I have now heard that there was two rejections
3 this year. That may or may not be correct; I don't
4 know. Oddly enough, the two I saw that I can speak
5 to myself happened to be special ed. rejections.
6 Okay? So maybe I saw the only two that were rejected
7 and maybe the only two in the history of Choice I saw
8 were special ed. So that -- I admitted to you on the
9 front-end that that was anecdotally. Okay? So there
10 we go.

11 So as far as this goes, what we have heard, as I
12 have sat here with you all day, is people who have
13 come and said, "This receiving district accepted one
14 sibling and I really want my other children to go to
15 school there." And what we have here is a parent
16 that said, "I've got two kids already going to the
17 Wynne District; they accepted them. But now my third
18 kid comes in -- because my third kid might need some
19 services," and "we reviewed some two-year old records
20 that say that, well, we can't take him because we
21 might have to hire another aid." And that's what I'm
22 hearing as I'm sitting here.

23 Take that with a grain of salt that I represent
24 the resident district, and I told you -- the first
25 thing I said when I stood up: we're the resident

1 district. If you send this child back to us, we're
2 going to educate this child whether we have to hire a
3 new aid, whether we don't have to hire a new aid.
4 We're going to within 90 days -- as Ms. Streett said,
5 we're going to do a new IEP and we're going to make
6 that determination. If we have to hire a new aid,
7 we're going to write the check and hire a new aid.

8 So that's where I'm going to leave it with you.
9 But I am going to remind you of what you have been
10 listening to all day about siblings, and that's what
11 this lady's argument boils down to, in my view, as I
12 sat in the back of the room all day. Thank you.

13 CHAIRMAN ZOOK: Thank you.

14 Anybody have a question for him?

15 No, they did not. That's fine. You're good.

16 Okay. Further discussion? Questions for any of
17 those who presented?

18 Mr. Pekron?

19 MS. LUKER: I have a question.

20 CHAIRMAN ZOOK: Okay.

21 MS. LUKER: Why is my son not good enough to go
22 to Wynne when Wynne has the resource classes? And
23 all of my other kids are going to Wynne. Why is he
24 not good enough to go to Wynne?

25 CHAIRMAN ZOOK: Those are the things that this

1 appeals process listens to, all sides, and then weigh
2 and take a vote. So let's see how it turns out and
3 -- as we let the Board ask questions if they have
4 any. Is that okay for you?

5 [MOMENT OF SILENCE]

6 CHAIRMAN ZOOK: Okay. Board Members, any
7 further questions?

8 MR. PEKRON: Yeah, I do.

9 CHAIRMAN ZOOK: Okay, Mr. Pekron.

10 MR. PEKRON: I've got really more of a comment
11 than anything. You know, I'm struggling on this
12 because I've seen attention in the statute between
13 the statute that says transfers are not to be denied
14 on the basis of disability and then we have one that
15 says staff shall not be required to be added. But if
16 we know there are some students who because of their
17 disability will necessarily require an additional
18 staff person be added, then it seems like the
19 position that's being adopted by the Wynne District
20 would prevent those students from ever participating
21 in School Choice. And so I'm just trying to work
22 through that in my mind of how -- if we assume that
23 the student does need an aid -- but we're not sure at
24 this point but even if we assume he did, are we then
25 saying that student is never allowed to participate

1 in School Choice because the student would
2 necessarily require an aid? And then if so, are we
3 then denying the student the ability to participate
4 in School Choice based upon the disability?

5 CHAIRMAN ZOOK: Okay, thank you for your
6 comments.

7 Anyone else?

8 Ms. Dean.

9 MS. DEAN: I have three things that I want to
10 say that -- three things that I'm looking at.

11 The first thing that Mr. Beavers mentioned, that
12 was one of the first things that I was thinking about
13 is there are already two siblings at Wynne already.
14 So the grandmother is already taking two children to
15 Wynne. So that to me is a factor of why this child
16 should be accepted at Wynne.

17 Number two, the consultant that Forest Heights
18 -- I'm sorry -- Forrest City, excuse me -- Forrest
19 City did not recommend additional staff -- that's my
20 understanding -- or for one-on-one.

21 And, number three, Wynne has not evaluated this
22 child, so it's pure speculation as to whether or not
23 an additional aid is needed.

24 So based on -- also agreeing with what Ms. Zook
25 said, this should be done on a child-by-child basis.

1 And since Wynne has not evaluated this child, and the
2 last professional evaluation that was done does not
3 include adding an additional staff member, when the
4 appropriate time comes I will be making the motion to
5 approve the transfer, because I don't see any reason
6 why this child should not be allowed to go to Wynne.

7 CHAIRMAN ZOOK: Dr. Hill? Ms. Newton?

8 MS. NEWTON: She read my notes.

9 CHAIRMAN ZOOK: Okay, she read your notes.

10 Ms. McAdoo? Dr. Moore? Mr. Williamson? Ms.
11 McFetridge? Commissioner?

12 Ms. Dedman, anything further we need to deal
13 with?

14 MS. DEDMAN: You can continue with further
15 discussion or you can welcome a motion.

16 CHAIRMAN ZOOK: Okay. We'll welcome a motion.
17 And if there is need for discussion before we vote,
18 please make sure I get your attention.

19 Okay. I will accept a motion.

20 MS. DEAN: I move to accept this transfer.

21 MS. NEWTON: Second.

22 CHAIRMAN ZOOK: Motion made by Ms. Dean. Do I
23 hear a second?

24 MS. NEWTON: Second.

25 CHAIRMAN ZOOK: Second by Ms. Newton.

1 Roll-call.

2 SECRETARY KEY: Mr. Pekron.

3 MR. PEKRON: Yeah.

4 SECRETARY KEY: Dr. Hill.

5 DR. HILL: Yes.

6 SECRETARY KEY: Mr. Williamson.

7 MR. WILLIAMSON: Yes.

8 SECRETARY KEY: Ms. McFetridge.

9 MS. McFETRIDGE: Yes.

10 SECRETARY KEY: Dr. Moore.

11 DR. MOORE: Yes.

12 SECRETARY KEY: Ms. Newton.

13 MS. NEWTON: Yes.

14 SECRETARY KEY: Ms. Dean.

15 MS. DEAN: Yes.

16 SECRETARY KEY: Seven yeas, zero nays.

17 CHAIRMAN ZOOK: Motion passed. The young Luker

18 child will be able to attend the Wynne School

19 District. And I appreciate all those of you who

20 attended and I have no question that all of you were

21 honest brokers in this, and it happens. Thank you

22 very much.

23 CHAIRMAN ZOOK: Okay. We have one item left and

24 then a time for public comment. So if it's okay with

25 the Board, I'll go ahead and take that item and

1 public comment before we adjourn. Is that all right?
2 Everybody good with that?

3 Okay.

4 A-2: REQUEST FOR APPROVAL: PROPOSED DESE EMERGENCY RULES
5 GOVERNING LICENSURE - REINSTATEMENT OF A REVOKED LICENSE

6 CHAIRMAN ZOOK: It's your lucky day, Mr. Taylor
7 -- or Mr. Dugan. Sorry. Taylor was my grandmother's
8 maiden name, so I have that in my head.

9 All right. You may present Item Number 2.

10 MR. DUGAN: Good afternoon, Ladies and Gentlemen
11 of the Board. Taylor Dugan, attorney with the
12 Division of Elementary and Secondary Education.

13 What I have in front of the Board today are some
14 emergency rules, and these emergency rules deal with
15 Act 628 of 2019. That was the law that was passed
16 that would give the Board the authority to reinstate
17 an educator's license if it has been revoked.

18 The reason we're asking for these rules to be
19 emergency is because there's educators out there that
20 could benefit from this being in effect, sooner
21 rather than later. One thing I learned recently too
22 is if someone has a revoked license they can't even
23 volunteer at the school. So this -- these emergency
24 rules provide that someone who had their license
25 revoked but it doesn't include a violent offense, it

1 doesn't include a sexual offense, could still go
2 through the process that's outlined in these rules to
3 get their license back.

4 And so if the Board has questions as far as for
5 these rules, we're -- they're going to be
6 incorporated into the final licensure rules that we
7 are drafting at the moment, and these will be
8 incorporated into Section 5 of those rules.

9 CHAIRMAN ZOOK: Questions?

10 Ms. Newton.

11 MS. NEWTON: I had one question and it was just
12 something I wasn't real clear on. Have you got them
13 in front of you?

14 MR. DUGAN: Yes, ma'am, I do.

15 MS. NEWTON: Okay. It's at 5-3-02.5.

16 MR. DUGAN: Yes, ma'am. That is -- so, for
17 example, let's take a teacher that had a standard
18 license; they would have to complete the 36 hours of
19 professional development on top of the other
20 requirements.

21 MS. NEWTON: Okay. Well, what my question was,
22 when it says at the time of application for an
23 initial certification is it the time that they had
24 the initial certification previously or is it at this
25 time? That was what I was unclear on. Does that

1 make sense?

2 MR. DUGAN: Yes, ma'am, it does make sense. I
3 do have Ms. Melissa Jacks --

4 To my understanding, Ms. Jacks, our
5 interpretation of that is currently, right now?

6 MS. JACKS: It would be to bring back a license
7 that has been expired.

8 MS. NEWTON: So it would be --

9 MS. JACKS: That's what we would do.

10 MS. NEWTON: -- current. Okay. All right.
11 That was what I wanted to be sure of.

12 MR. DUGAN: We were kind of trying to treat
13 these as like an expired license or a suspended
14 license.

15 MS. NEWTON: Okay. That was my only question.

16 CHAIRMAN ZOOK: Are there other questions?

17 Dr. Moore.

18 DR. MOORE: Thank you. I just want to double-
19 check. So this is a discretionary process by the
20 State Board; correct? So it's --

21 MR. DUGAN: Yes, ma'am, that is correct.

22 DR. MOORE: Okay. And then this is always
23 sought out by the applicant; it's nothing that the
24 Department is going to go back and --

25 MR. DUGAN: Correct. So --

1 DR. MOORE: -- do; is that correct?

2 MR. DUGAN: [clearing throat] Excuse me.

3 Educator -- it would have to have been 10 years since
4 their license had been revoked. So they still would
5 have that 10 years that they were revoked recently.
6 But, yes, the applicant would be the Educator and
7 they would have to provide the things in these rules
8 that it sets out, and then they would have a hearing
9 in front of the Board, and then the Board would get
10 to make that determination on whether or not they
11 wanted to reinstate this person's license or give
12 them the ability to get their license back.

13 DR. MOORE: Okay. And if reinstated, is their
14 future license the same as any license or is that
15 treated differently?

16 MR. DUGAN: It depends if they had a provisional
17 license, if they had a standard license.

18 DR. MOORE: Okay.

19 MR. DUGAN: To my understanding, Ms. Jacks,
20 we're looking at this as a standard license?

21 MS. JACKS: Right.

22 DR. MOORE: Okay.

23 MR. DUGAN: Correct.

24 MS. NEWTON: Would there be --

25 DR. MOORE: Thank you.

1 MS. NEWTON: -- a probation period?

2 MR. DUGAN: You know, we have not thought about
3 that as far as whether or not the Board could put the
4 person on probation as far as if they reinstated
5 their license. So --

6 CHAIRMAN ZOOK: The Commissioner has an opinion.

7 SECRETARY KEY: Well, I would just say that keep
8 in mind that these emergency rules are going in, but
9 we are promulgating permanent rules --

10 MS. NEWTON: Okay.

11 SECRETARY KEY: -- that -- that may be something
12 if this Board wants us to take and look at in
13 permanent rules, then we could add that. But just to
14 give you background, remember we've had the gentleman
15 that came I think in the July meeting and hoped that
16 he could ask you all to grant him some sort of
17 waiver, but the law had not gone into effect yet.
18 This is an attempt to create an avenue on a quicker
19 basis for that gentleman or others like him to come
20 and seek. But this would not be the permanent rule.
21 So if you want to -- the team to go back and look at
22 a probationary status period, they could do that as
23 part of the permanent process.

24 MS. NEWTON: I think that might be wise to think
25 about.

1 SECRETARY KEY: Yes, I agree.

2 CHAIRMAN ZOOK: I think particularly if it was
3 revoked while they were on their probationary time --

4 MS. NEWTON: Yeah.

5 CHAIRMAN ZOOK: -- as opposed to if they taught
6 15 years and were going back into the same field. So
7 an opportunity for us to weigh that would likely be
8 appreciated and well received.

9 MR. DUGAN: Yes, ma'am.

10 CHAIRMAN ZOOK: Others?

11 Do I have a motion?

12 MS. NEWTON: Move to approve.

13 CHAIRMAN ZOOK: Ms. Newton moves to approve the
14 rules to go -- okay, the emergency rules. And then
15 the others will come back to us? Okay.

16 MR. DUGAN: Yes, ma'am, that's correct.

17 CHAIRMAN ZOOK: All right. Ms. Donovan, do you
18 have that?

19 MS. DONOVAN: Yes.

20 CHAIRMAN ZOOK: All right. Do I have a second?

21 MS. McFETRIDGE: Second.

22 CHAIRMAN ZOOK: Ms. McFetridge seconds, Ms.
23 Newton moved.

24 All in favor?

25 (UNANIMOUS CHORUS OF AYES)

1 CHAIRMAN ZOOK: Any opposed?

2 Motion passes.

3 PUBLIC COMMENT

4 CHAIRMAN ZOOK: Okay. Ms. Freno, do we have any
5 public comment of which you're aware?

6 MS. FRENO: No, Ms. Zook, there is no public
7 comment.

8 CHAIRMAN ZOOK: Okay. Thank you.

9 ADJOURNMENT

10 CHAIRMAN ZOOK: Ms. Luker, if you're still on
11 the phone, thank you very much and you can go on
12 about your day now.

13 Do I have a motion to adjourn?

14 MS. McFETRIDGE: So moved.

15 MS. DEAN: So moved.

16 CHAIRMAN ZOOK: I have a motion by Ms.
17 McFetridge, second by Ms. Dean.

18 All those in favor?

19 (UNANIMOUS CHORUS OF AYES)

20 CHAIRMAN ZOOK: So moved.

21

22

23 (The meeting was concluded at 12:12 p.m.)

24

25

C E R T I F I C A T E

STATE OF ARKANSAS)
) ss.
 COUNTY OF SALINE)

I, SHARON K. HILL, CCR, a Certified Stenomask Reporter and Notary Public before whom the foregoing proceedings was taken, do hereby certify that the same is a true and correct transcription before the Arkansas State Department of Education, State Board of Education, in Little Rock, Arkansas, on July 30, 2019, that the said proceedings was reduced to typewritten form by me or under my direction and supervision; and that the foregoing pages constitute a true and correct transcription of all proceedings had in said matter.

I FURTHER CERTIFY that I am neither counsel for, related to, nor employed by any of the parties to this action.

I FURTHER CERTIFY that I have no contract with any parties within this action that affects or has a substantial tendency to affect impartiality, that requires me to relinquish control of an original transcript or copies of the transcript before it is certified and delivered to the custodial agency, or that requires me to provide any service not made available to all parties to the action.

WITNESS, MY HAND AND SEAL, THIS DATE: August 4, 2019.

SHARON K. HILL, CCR
 Certified Court Reporter
 Certificate No. 670

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